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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**CWP-19100-2014**  
**Date of Decision : July 17, 2018**

Chief Conservator Officer and others

.... Petitioners.

Versus

Smt. Sawarno Devi and another.

.... Respondents.

**CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN**

Present Mr. Rohit Arya, AAG, Haryana  
for the petitioners.

Mr. Ishan Cooner, Advocate,  
for Mr. J.S.Cooner, Advocate,  
for respondent No.1.

**SHEKHER DHAWAN, J.**

Present writ petition under Article 226/ 227 of the Constitution of India is for issuance of a writ in the nature of certiorari to quash the impugned award dated 19.12.2013 (Annexure P/5) passed by learned Labour Court, Ambala.

2. Facts relevant for the purpose of decision of this writ petition; that workman – Smt. Sawarno Devi, respondent No.1 herein, was engaged as daily wager by the petitioner-department in the year 2000 and her services were terminated on 24.06.2009 despite availability of work and even without issuance of any notice or holding any enquiry or payment of any compensation. Respondent-workman raised an industrial dispute and

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reference was made before learned Labour Court.

3. The Management came with the plea that the workman was employed on daily wages and her employment was subject to availability of the forestry work. Her services were never terminated, rather she herself left the work at her own sweet-will and had not completed the service of 240 days during the last preceding months i.e., from 25.5.2008 to 24.06.2009.

4. Learned Labour Court considered the matter in its entirety and on the basis of material and evidence available on the file, answered the reference in favour of the workman and she was held entitled to reinstatement with continuity of service and 50% back wages.

5. At the time of arguments, learned counsel for the petitioners contended that the respondent-workman has already joined the duties and she was working with continuity of service, but there are no grounds for payment of 50% back wages as awarded by the Labour Court.

6. While arguing on merits, learned State counsel representing the petitioners also contended that the workman had not completed 240 days of service in the preceding 12 months in the calendar year and as such, there was no question of her reinstatement and allowing continuity of service.

7. Learned counsel for the workman-respondent no.1 contended that the employment of the workman with the present petitioners is not disputed by the petitioners, but the Management failed to produce any record before the Labour Court without any sufficient reason. The ground taken for non-production of record before the Labour Court was that the

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relevant record was damaged and destroyed in floods, but even no DDR or FIR was produced on the file indicating that in fact, the record was destroyed or damaged. At this stage, inference is certainly to be drawn against the Management and that has been legally done by the Labour Court and the order for reinstatement of the workman with continuity of service is perfectly valid and legal. There are no grounds to interfere in the impugned award passed by learned Labour Court.

8. As regards to payment of back-wages, learned counsel for the workman-respondent No.1 fairly came with the plea that since the workman has joined her duties and she is working with the petitioners, the workman is ready to give-up her back wages even.

9. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that the Labour Court has rightly recorded the findings keeping in view the fact that the workman remained under employment of the petitioners from 2000 to 24.06.2009 and her employment was not disputed by the Management, rather the petitioners came with the plea before learned Labour Court that it was not a case of termination but it was a case of abandonment of job by the workman herself. The workman moved application for production of relevant record before the Labour Court, but the Management failed to produce the same, rather, came with the plea that the said record was damaged in floods. The said plea was rightly discarded and disbelieved by learned Labour Court as no DDR or FIR in support of that was placed on record. Had there been actual damage to the records, there was no reason with the Management not to report to the

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Police regarding damage of the official records. Learned Tribunal has rightly drawn adverse inference on this point and on that basis, pronounced the award thereby directing reinstatement of the workman with continuity of service. In compliance thereof, the workman has already joined her duties with continuity of service. The award of back-wages has been given up by the workman herself, at the time of arguments. Such a view was taken by Hon'ble Apex Court in **Defence Research Education Society & Another v. Neeta Tuteja, 2015 (1) S.C.T. 18**, wherein the Hon'ble Apex Court directed the management to reinstate the workman without back wages but with continuity of service. There is no ground for setting-aside the findings recorded by the Labour Court with regard to reinstatement of workman and continuity of service and the impugned award dated 19.12.2013 (Annexure P/5) is upheld and the writ petition is dismissed to that extent. However, since the respondent-workman has given-up the back-wages, the award is modified to the extent that the workman shall not be entitled to any back-wages.

10. Resultantly, the present writ petition stands disposed of in the above terms.

**(SHEKHER DHAWAN)**  
**JUDGE**

**July 17, 2018.**  
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| Whether speaking/reasoned? : | Yes |
| Whether reportable? :        | Yes |