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

**CWP-14284-2018**

**Date of Decision : July 10, 2018**

HPL Electric and Power Pvt. Limited.

.... Petitioner.

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court  
and another.

.... Respondents.

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

Present Mr. Amrinder Singh, Advocate  
for the petitioner.

**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 impugned award dated 08.12.2017 (Annexure P/1) passed by the Industrial Tribunal-cum-Labour Court-II, Gurugram (for short, "the Tribunal"), whereby, Sudhir Kumar, respondent No.2/workman was held entitled to re-instatement with continuity of service and full back wages from the date of his termination i.e., 16.1.2014.

2. Undisputed facts relevant for the purpose of decision of this writ petition; that Sudhir Kumar was working as Production Engineer with the present petitioners and he was getting monthly salary of Rs.20,700/-. He worked with the petitioner-Management from 2.2.2009 and his

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services were terminated on 16.1.2014. The workman challenged his termination and learned Tribunal decided the reference in his favour. The plea taken by the petitioner-Management before the Tribunal was that the workman is not covered under the definition of “workman” as per provisions of Section 2(s) of the Industrial Disputes Act, 1947 (for short, “the Act”).

3. At the time of arguments, learned counsel appearing for the petitioner-Management submitted that learned Tribunal has completely ignored the fact that the respondent No.2 was working as Production Engineer and the nature of his duties were mainly supervisory and as such, he is not covered under the definition of “workman” as defined under Section 2(s) of the Act and wrongly pronounced the award (Annexure P/1) in favour of the workman and the same is liable to be set-aside.

4. Having considered the submissions made by learned counsel for the petitioner and appraisal of the material available on the file, this Court is of the considered view that learned Tribunal has recorded the finding on this point on the basis of record, especially on the basis of evidence adduced by the petitioner-Management itself. It had come on the file by way of statement of MW-1 wherein, he has admitted in his cross-examination that no duty chart was given to the workman and he was not having proof to show that the workman was working in supervisory capacity. The nature of his work is technical. To the contrary, the workman has completely denied this fact while leading his evidence. Law on the point is settled that merely taking the plea that a person was

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working in a supervisory capacity does not make out a case that he is not covered under the definition of “workman”. In the absence of any positive evidence available on the file that the nature of duties of Sudhir Kumar, respondent No.2 was mainly of supervisory, learned Tribunal has rightly recorded the finding in his favour. More so, the petitioner-Management cannot take contrary stand to the evidence led before the Tribunal by way of statement of its own witness, i.e. MW-1, Nigam Anand, Senior Personnel Officer, who has admitted all these facts and failed to place on file any document indicating that the duties of Sudhir Kumar, workman were mainly supervisory in nature.

5. In view of the above, there is nothing to set-aside the impugned award, dated 8.12.2017 (Annexure P/1), passed by respondent No.1. The present writ petition lacks merits and the same stands dismissed *in limine*.

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

**July 10, 2018.**  
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| Whether speaking/reasoned? | : | Yes |
| Whether reportable?        | : | Yes |