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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-3928-2012

Date of Decision : August 09, 2018

Ram Parkash

.... Petitioner.

Versus

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

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Sameer Sachdeva, Advocate
for the petitioner.

Mr. Karan Nehra, Advocate,
for respondent No.2-Management.

SHEKHER DHAWAN, J.

Present writ petition under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari to quash the award dated 14.01.2010 (Annexure P/4) passed by learned Industrial Tribunal-cum-Labour Court, Panipat (for short, "the Tribunal"), whereby the reference was decided against the petitioner-workman.

2. Facts relevant for the purpose of decision of this writ petition; that the petitioner was working as a Gate Keeper in the respondent No.2 – Parkash Public School, Karnal (hereinafter referred as "the Management") since 1.1.1997 and he was drawing monthly salary of Rs.2,500/-. His services were terminated by the Management on 16.6.2004 without

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payment of any retrenchment compensation or issuance of notice etc. Industrial dispute was raised by the workman and learned Tribunal after considering the matter in its entirety pronounced the award against the workman and as such, the present writ petition before this Court.

3. Learned counsel for the petitioner-workman contended that learned Tribunal has not considered the facts relevant for the purpose of decision of the present controversy and as such, the said award is liable to be set-aside.

4. Learned counsel for the respondent took the plea that the petitioner had himself abandoned the job. As per the respondent-Management, the petitioner had been paid his wages upto 31.05.2004 and thereafter he remained absent from his duties from 1.6.2004 to 16.6.2004. The reason for his absence from duty was that the petitioner was asked to perform his duties in the office, school ground and park of the school and he refused to receive the said letter and thereafter remained absent.

5. Learned counsel for the respondent-Management also took the plea that the petitioner was asked to join his duties and offer to that effect was given to him during the proceedings before the Tribunal, but the petitioner refused to accept the said offer on the ground that he would not join his job till he is paid his backwages and that fact establishes that the petitioner was not interested in doing his job and the Tribunal has rightly considered all these facts while pronouncing the award and the present writ petition is without any merit and the same be dismissed.

6. Having considered the submissions made by learned counsel for the parties and appraisal of the record and the undisputed facts, this

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Court is of the considered view that the controversy is narrowed down – whether the petitioner was justified in refusing the offer to join his duties because the case of the Management is specific that the services of the petitioner were never terminated, rather he himself abandoned the job. The non-acceptance of offer to resume the duties certainly establish that it was the petitioner himself who had abandoned the job. The Management had come with the specific plea that the wages upto 31.05.2004 had already been paid to the workman and he was insisting for payment of wages for the period from 1.6.2004 to 16.6.2004, during which he remained absent. For this reason, the petitioner was certainly not justified in refusing such an offer and that too before the Industrial Tribunal. Otherwise also, the petitioner has not been able to produce on file any such material or document that his services were terminated by the Management and on that account, he is entitled to his reinstatement or some compensation.

7. In view of the above, learned Tribunal has rightly recorded the finding that it was not a case of termination of service of the workman, rather it was a case of abandonment of job on the part of the petitioner. The present writ petition is without any merit and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

August 09, 2018.
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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes