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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP-21215-2015
Date of Decision : July 19, 2018

Anand Petitioner.

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court-I,
Faridabad and another.
.... Respondents.

2. CWP-26083-2015 [O&M]

Devender Kumar Petitioner.

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court-I,
Faridabad and another.
.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Ms. Sangita Dhanda, Advocate
for the petitioners.

Mr. R.S.Longia, Advocate,
for respondent No.2 in CWP No. 21215-2015

Mr. Sourabh Goel, Advocate,
for respondent No.2 in CWP No. 26083-2015

SHEKHER DHAWAN, J.

Challenge in both the above titled two writ petitions filed by the
unsuccessful workmen under Article 226/227 of the Constitution of India is

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the two different awards, passed by learned Industrial Tribunal-cum-Labour Court-I, Faridabad (for short, "the Tribunal") by which, the references have been answered against the petitioners-workmen. In CWP No. 21215 of 2015, petitioner, Anand has sought quashing of award, dated 8.1.2015 (Annexure P/11) and in CWP No. 26083 of 2015, challenge is to the award dated 03.12.2014 (Annexure P/11) passed by learned Tribunal. As the controversy involved in both these writ petitions is same, those are being disposed of by this common order.

2. For facility of reference, facts from CWP-26083-2015 are being taken. Petitioner, Devender Kumar was appointed as Safai Karamchari by respondent No. vide appointment letter dated 17.1.1997 (Annexure P/1) and he was put on probation for a period of two years from the date of his joining or such extended period and his services were liable to be terminated during the said period without any notice. Before the appointment of the petitioner, he was duly interviewed and he had to undergo physical test. The petitioner successfully completed his probation period. However, the services of the petitioner were abruptly terminated on 11.1.2001 vide order, Annexure P/2, though, he had completed four years of service.

3. The petitioner alongwith other similarly situated employees approached this Court by filing CWP No. 12010 of 2001, but the same was dismissed on 27.9.2005 by a Co-ordinate Bench of this Court. They filed a Review Application. Hon`ble Division Bench of this Court vide order dated 24.12.2008 (Annexure P/3) set-aside the order dated 27.09.2005 and the

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writ petition was allowed to be withdrawn with liberty to seek appropriate redress in appropriate proceedings before the appropriate authorities in accordance with law. Subsequent thereto, some of the employees approached the Civil Court/Labour Court and the employees were allowed to continue in service by passing different orders. The petitioner is also similarly placed and as such, is entitled to the computed balance amount of earned wages as a regular employee till retrenchment. Respondent-Management had passed different orders for other similarly situated employees and offered appointment on regular basis, but with a condition that he would not claim any benefit on the basis of their previous appointment letter dated 17.1.1997. Since the present petitioner was one of the petitioners, who had filed aforesaid writ petition and sought review and were granted liberty to seek appropriate redress in appropriate proceedings, the petitioner raised industrial dispute challenging his termination and the reference was made to the Tribunal.

4. Learned Tribunal after considering the matter in its entirety, pronounced separate awards, as mentioned in para No.1 of this order, and answered the reference against the petitioners. Hence, the petitioners have filed these writ petitions challenging the said awards.

5. Learned counsel for the petitioner(s) contended that they were appointed as Safai Karamcharis on regular basis after following due procedure. Their services were terminated without making payment of any compensation. She has placed reliance on the decision of Hon`ble Supreme Court in **Shri Mohan Lal Vs. Management of M/s Bharat**

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Electronics Ltd., 1982(1) Scale 552. However, learned Tribunal has not considered this aspect while pronouncing the awards.

6. Learned counsel representing the Management contended that the petitioners were not working on regular basis. After joining of regular employees, the services of the petitioners were terminated. Retrenchment compensation was also paid to them, which was duly accepted by the workmen. The writ petitions are without any merit and the same be dismissed.

7. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that there is no dispute on the facts that the petitioners were appointed as Safai Karamcharis vide appointment letters dated 17.1.1997 (Annexure P/1) and they served the respondent-Management for about 4 years. Thereafter, they were retrenched on 11.1.2001 and retrenchment compensation was also paid to them. Learned Tribunal has recorded positive findings that the petitioners had received retrenchment compensation of Rs.7000/- and Rs.5865/- (by cheque) respectively and even the cheque was encashed. On these grounds, the facts of the case in hand are entirely different from the facts of **Mohan Lal's case (supra)** because in the present cases, the stand of the respondent-Management is specific that the petitioners were retrenched and retrenchment compensation was duly paid and accepted by them. Learned Tribunal has recorded positive finding on the basis of material and evidence available on the files and there are no grounds to set-aside the impugned awards dated

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8.1.2015 and 3.12.2014 passed by the Tribunal, which are under challenge in these two writ petitions.

8. In view of the above, the present writ petitions are without any merit and the same stand dismissed.

(SHEKHER DHAWAN)
JUDGE

July 19, 2018.
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes