

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

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**CWP-22805-2014 (O&M)
Date of decision:22.01.2018**

The District Food & Supplies Controller and others

....Petitioners

Versus

Smt. Sukho Devi and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Gagandeep Wasu, Addl. A.G. Haryana.

Mr. Rajesh Bansal, Advocate for respondent No.1.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioners have challenged the award passed by the labour court dated 27.05.2014 (Annexure P-1).

Learned counsel for the petitioners submitted that labour court has erred in directing petitioners to employ respondent immediately by giving benefit of continuous service w.e.f. 17.03.2011 along with consequential benefits. It was submitted that in the demand notice there is no plea of gainfully employed by the respondent or that she is unemployed. Therefore, labour court has erred while passing order dated 27.05.2014. It was also submitted that services of respondent No.1 were terminated orally in the month of July, 2010 and disputing the version of the respondent that

her services were terminated on 17.03.2011.

Per contra, learned counsel for the respondent submitted that in the demand notice vide Annexure P2 in para 16 respondent had requested for reinstatement to the authorities. Since no action has been taken by the concerned petitioner it shows that as on the date of demand notice respondent was not gainfully employed. Therefore, the contention of the petitioner that respondent is not pleaded gainfully employed may not be correct. It was further contended that petitioner's contention that respondent's services have been terminated in the month of July, 2010 is not supported by any document. Therefore, the aforesaid contention of the petitioner cannot be accepted.

Heard learned counsel for the parties.

Crux of the matter in the present petition is whether labour court has erred in not noticing that respondent is not pleaded in the demand notice to the extent that she was not gainfully employed or not? Further oral termination is dated 17.03.2011 or July, 2010. In the respondent's demand notice in para 16, respondent has pleaded as under:-

“That the applicant has moved her application for the reinstatement to the authorities, but all in the vain.”

Perusal aforesaid averment it is crystal clear that as on the date of issuing of demand notice respondent was unemployed. May be it is not happily worded to the extent that respondent was not gainfully employed, however, one has to draw inference that when one has moved application for her reinstatement to the authorities it deemed that she was unemployed.

Therefore, plea of the petitioners that respondent has not specifically stated that she was not gainfully employed in the demand notice cannot be accepted. Insofar as date of termination is concerned it is to be noted that no order of termination has been passed. What has been noticed is it is an oral termination. No material has been placed by the petitioners to contend that respondent's services have been terminated in the month of July, 2010. It is also not with a specific date. Further no material or evidence has been adduced to the extent that respondent's services were terminated in the month of July, 2010. Accordingly, petitioners have not made out a case so as to interfere with the award passed by the labour court dated 27.05.2014 (Annexure P1).

Accordingly, CWP stands dismissed.

22.01.2018

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons:

Yes/No

Whether Reportable:

Yes/No