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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-16687-2018 (O&M)
Date of Decision : July 11, 2018

Ramesh Kumar Petitioner.

Versus

Presiding Officer, Industrial Tribunal and Labour
Court U.T. and others Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr.Vinod Chaudhri, 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 for quashing impugned award dated 29.11.2017 (Annexure P/1), passed by Industrial Tribunal and Labour Court, U.T., Chandigarh (for short, “the Tribunal”), whereby reinstatement of the petitioner was declined.

2. Facts relevant for the purpose of decision of this writ petition; that the petitioner was appointed as daily wage Trade Mate by respondent-Management w.e.f. 1.6.1998 and his employment continued till 30.05.2008. On that day, the petitioner was involved in a criminal case of corruption and he remained in custody from 1.6.2008 to 30.06.2008. Thereafter, the petitioner remained in jail.

3. The petitioner had made representation dated 4.7.2008 for

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allowing him to join his duties, but he was not allowed to do so nor any termination order was passed by the respondent-department. The petitioner was acquitted in the criminal case after trial on 29.11.2011. After acquittal, the petitioner again submitted a representation on 13.12.2011 praying for rejoining of his duties, followed by another representation dated 20.12.2011, but no action was taken thereon. Even mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 (for short, "the Act") have not been complied with and the petitioner prayed for reinstatement with full back wages.

4. The respondent-Management had come with the plea that as the petitioner remained in custody from 30.05.2008 to 30.6.2008, as such, he remained absent from duty for the said period. There is no material available on the file that he had ever made any representation to join his duties till 13.12.2011, i.e., after acquittal of the charges framed against him in the criminal case. Moreover, no date of alleged termination has been disclosed by the workman. There is no termination of the petitioner.

5. At the time of arguments, learned counsel for the petitioner contended that the Tribunal has not considered the fact that because of certain circumstances which were beyond the control of the petitioner, he could not report for duties till 4.7.2008. On that day, he had made representation (Ex. W/1) for allowing him to join his duties, but he was not allowed to do so. Thereafter, he had made subsequent representation on 13.12.2011 (Ex. W/3), but he was not allowed to join his duties nor any compensation had been paid and the learned Tribunal has not considered this fact while pronouncing the impugned award against him.

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6. 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 basic facts are not disputed that the petitioner was involved in a criminal case of corruption and he remained in custody from 30.05.2008 to 30.06.2008. During that period, he had not informed regarding his absence. Even after acquittal, he had not made any representation. Though, the petitioner is relying upon representation dated 4.7.2008 (Ex.W/1) and the same was considered by learned Tribunal and recorded positive finding that there is no material or evidence available on the file that the said representation was ever made to the Management. There is no supporting evidence available on the file. The petitioner-workman has not led any evidence to the effect that the said representation was given to Sub Divisional Engineer where he was working. The said representation Ex. W/1 has not been proved on record. Similarly, the alleged representation dated 13.12.2011 (Ex.W/2) was not ever made before the respondent-Management and subsequently, the petitioner had taken this plea just to make out a case for his reinstatement with back-wages, for which he is not entitled to. Learned Tribunal has already considered this fact and no case is made out warranting interference by this Court in the award, Annexure P/1 passed by learned Tribunal.

7. In view of the above, the present writ petition lacks merits and the same stands dismissed *in limine*.

(SHEKHER DHAWAN)
JUDGE

July 11, 2018.
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