

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

CWP-25077-2014 (O&M)

Date of Decision: 18.04.2018

Baljeet Singh

... Petitioner

Vs.

Industrial Tribunal, Bathinda and others

... Respondents

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

Present : Ms. Sukhmani Patwalia, Advocate
for the petitioner.

Mr. Rashpinder Singh Sodhi, Advocate
for respondents No.2 and 3.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has challenged the award passed by the Labour Court dated 11.09.2013 (Annexure P-3).

2. Petitioner was stated to have been appointed on contract basis for a particular tenure. Thereafter his services were terminated on 30.06.1998 in terms of the order of appointment. Thus, demand notice was issued on 11.03.2004. Consequently, reference was decided by the Labour Court on 11.09.2013. Hence, the present petition.

3. Learned counsel for the petitioner submitted that contract appointee would fall under the definition of workman. Therefore, provisions of the Industrial Disputes Act, 1947 (for short "the Act") is applicable. She heavily relied on evidence/affidavit of MW-1 to the extent that petitioner has worked for more than 240 days. Thus, there is violation of Section 25-F of the Act. It was further contended that even in respect of belated claim, matter is required to be considered in view of the decision of the Supreme

Court in the case of *Ajaib Singh v. The Sirhind Co-op. Marketing-cum-*

Processing Service Society Ltd. 1999 (6) SCC 82.

4. Per contra, learned counsel for respondents No.2 and 3 while resisting the contention of the petitioner submitted that having regard to the nature of appointment of the petitioner to the extent that it was a contract and it is a tenure appointment. Therefore, petitioner has no statutory remedy under Section 2 (oo) and (b) of the ID Act. It was also submitted that no material has been produced by the petitioner in respect of discharging more than 240 days. Further it was contended that claim of the petitioner is belated and it is claimed after more than 5 years which has been taken into consideration by the Labour Court while rejecting the claim of the petitioner. Thus, petitioner has not made out a case so as to interfere with the award passed by the Labour Court.

5. Heard the learned counsel for the parties.

6. Crux of the matter in the present petition is whether petitioner was appointed on regular basis or contract basis? Undisputedly, petitioner was appointed on contract basis which is tenure appointment as well as tenure period has been complete. Petitioner has no legal right to hold the post so also question of holding of inquiry or issuance of charge-sheet are not attracted in the present case with reference to Section 2(oo) (b) of the ID Act. That apart, there is delay of 5 years in raising demand notice from the date of termination which has been taken note of by the Labour Court. Insofar as decision cited by the learned counsel for the petitioner in the case of **Ajaib Singh** (supra) is concerned, the said decision is distinguishable having regard to the nature of appointment of the petitioner that he was appointed on contract basis. Therefore, the said decision is not applicable to the present case.

7. In view of these facts and circumstances, petitioner has not made out a case so as to interfere with the award passed by the Labour Court.

8. Accordingly, petition stands dismissed.

18.04.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**