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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-26814-2014

Date of Decision : August 30, 2018

Vinod Kumar Gautam

.... Petitioner.

Versus

M/s R.N. Infra Communications (P) Limited
and another.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Ashwani Bakshi, Advocate
for the petitioner.

None for respondent No.1 .

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/modify the award dated 15.4.2013 (Annexure P/3) passed by learned Industrial Tribunal-cum-Labour Court-II, Gurgaon (for short, "the Tribunal") to the extent that the petitioner has been awarded lump-sum compensation of Rs.20,000/- instead of allowing the relief of reinstatement with continuity of service and back wages.

2. As per the petitioner, he was appointed on 1.4.2006 as a Runner and his services were confirmed by the Management (respondent No.1 herein) vide order dated 30.04.2007 (Ex. MW-1/3). However, his

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services were terminated by the Management vide order dated 12.5.2017 (Ex. MW-1/2) without complying with the mandatory provisions of Industrial Disputes Act, 1947 (for short "the Act") or payment of compensation. On this ground, industrial dispute was raised and reference was made to the Tribunal.

3. The stand of the Management before the Tribunal was that the petitioner had not completed 240 days of continuous service with the Management. His services were terminated as the same were no longer required. His appointment letter, Ex. R/1 also indicated the same terms that his services could be terminated at any point of time and pursuant to that, his services were terminated. It was prayed that the reference be decided against the workman.

4. After considering the entire facts and material available on record, the Tribunal decided the reference in favour of the petitioner-workman thereby denying reinstatement in service with continuity and back wages and allowed an amount of Rs.20,000/- as compensation to the petitioner.

5. Learned counsel for the petitioner contended that the petitioner was appointed by the Management and he was confirmed vide Ex. MW-1/3. Later on, his services were terminated on 12.05.2007 without complying with the provisions of the Act. Though, the termination of the petitioner was held to be illegal by learned Tribunal, but at the same time, the relief of reinstatement with continuity of service and back wages has been denied and instead meager compensation of Rs.20,000/- has been

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awarded to the petitioner. The findings recorded by learned Tribunal to this effect are therefore, liable to be set-aside.

6. At the time of arguments on 24.08.2018, there was no representation on behalf of respondent No.1. On the previous dates of hearing, i.e., 30.9.2016, 1.9.2017, 6.12.2017 and 26.04.2018 as well, there was no representation from respondent No.1 side.

7. Having considered the submissions made by learned counsel for the petitioner and appraisal of the record, this Court is of the considered view that the petitioner was appointed on 17.8.2006 (Ex. R/1) by the Management and his services were terminated on 12.5.2007 (Annexure P/2). By that time, he had served the Management for a period of about 1 year. Learned Tribunal, after applying its judicious mind, calculated the actual working days from 17.8.2006 to 12.05.2007, to be 269 days and as such, it was held that the petitioner had worked for more than 240 days with the Management in the preceding calendar year. Since the petitioner had served the Management for a period of less than one year and the Management had come with the plea that his services were not required, but no compensation was paid to him though he had served the Management for more than 240 days, learned Tribunal has rightly held that the petitioner is entitled to compensation and the compensation has been assessed at Rs.20,000/-, which is certainly a reasonable and fair amount of compensation for such a period of employment.

8. In view of the above, no interference is called for by invoking the writ jurisdiction of this Court. The present writ petition is without any

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merit and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

August 30, 2018.
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes