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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP-3709-2013

Date of Decision : August 06, 2018

Anjani Kumar Petitioner.

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court-II,
Gurgaon and another. Respondents.

2. CWP-3749-2013

Shish Pal Petitioner.

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court-II,
Gurgaon and another. Respondents.

3. CWP-3750-2013

Ravi Kumar Petitioner.

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court-II,
Gurgaon and another. Respondents.

4. CWP-3767-2013

Sombir Singh Petitioner.

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Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court-II,
Gurgaon and another.

.... Respondents.

5. CWP-3811-2013

Sant Lal

.... Petitioner.

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court-II,
Gurgaon and another.

.... Respondents.

6. CWP-3873-2013

Rattan

.... Petitioner.

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court-II,
Gurgaon and another.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Rajesh Arora, Advocate
 for the petitioner.

Mr. Anand Chhibber, Senior Advocate,
with Mr. Gaurav Mankotia, Advocate,
for respondent No.2-School.

SHEKHER DHAWAN, J.

In all these above titled six writ petitions filed by the workmen,

the controversy involved is as to whether the services of the petitioners-

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workmen were terminated by respondent No.2 – Meenakshi Public School, Sector 10-A, Gurgaon or they had abandoned the job. The references made to the Industrial Tribunal-cum-cum-Labour Court-II, Gurgaon (for short, “**the Tribunal**”) was answered against the workmen vide different awards. Therefore, with the consent of the parties, the above stated six writ petitions are taken up collectively for disposal. For facility of reference, facts are being taken from CWP-3709-2013 titled **Anjani Kumar Vs. Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Gurgaon and another.**

2. As per petitioner – Anjani Kumar, he was appointed by respondent No.2/School as a Head Mali on 1.3.2000 and he was performing his duties satisfactorily. However, his services were illegally terminated on 09.09.2004 without issuance of any notice or payment of compensation under Section 25-F of the Industrial Disputes Act, 1947 (for short, “**the Act**”). Petitioner raised an industrial dispute by issuance of demand notice, on the basis of which learned Tribunal decided the reference against the workman holding that it was a case of abandonment of job.

3. The management came with the plea that the services of the petitioner were not terminated. In fact, the petitioner had abandoned the job on 21.06.2004 and as such, the petitioner was not entitled to any compensation under Section 25-F of the Act or reinstatement with continuity of service in any way and the learned Tribunal has rightly decided the controversy by pronouncing the impugned award.

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4. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that that the factual and legal point involved in present controversy is - whether it was a case of termination of services of the workmen or the workmen had abandoned the job. The Management has come with the plea that the petitioner himself had abandoned the job on 21.06.2003, but the document, Annexure R/2-1 available on the file establishes that the petitioner-workman had reported for duty even on 8.9.2004 and on that date, he was asked to do some job regarding cutting of grass and the workman had abused him. He was asked to appear before the Principal but the workman made an attempt to attack him and the security guard present outside the office of the Principal stopped him. Otherwise also, his previous record was not satisfactory. The said letter establishes that the services of the workman were terminated on that account on 9.9.2004 as is the case of the workman. If at all the petitioner-workman had committed any alleged acts of nuisance, indiscipline or insubordination, some show cause notice or departmental enquiry should have been conducted as the petitioner had already put in continuous service of more than three years by that time. However, the management terminated his services without issuance of any notice and later on came with the plea that it was a case of abandonment of job, which is contrary to the factual position. Learned Tribunal has completely ignored these facts while returning the findings and as such, the findings recorded by the Tribunal on this point are set-aside.

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5. The petitioners-workmen who are working on different class IV posts, i.e. Head Mali, Mali, Safai Karamchari, Peon etc. have already put in service ranging from more than three years to seven years and their alleged termination was ordered in the year 2004. Now, as the period of more than 14 years has already elapsed, it may not be appropriate to order their reinstatement in such like cases, at this stage, rather the petitioners can be compensated by payment of lump sum compensation.

6. In view of the above all the writ petitioners-workmen shall be entitled to compensation @ Rs.30,000/- per annum for each completed year of service or part thereof. Respondent-Management shall be liable to make payment of amount of compensation so assessed, within a period of three months from today, failing which the petitioners shall be entitled to interest @ 9% per annum from today.

7. Resultantly, the writ petitions are allowed in the above terms.

(SHEKHER DHAWAN)
JUDGE

August 06, 2018.
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes