

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 3983 of 2015 (O&M)
Date of Decision: January 29, 2018

Vishal Sharma

... Petitioner

Versus

Presiding Officer, Industrial Tribunal, Jalandhar and others

... Respondents

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

Present: Mr. Manish Dadwal, Advocate,
for the petitioner.

Mr. A.P.S. Sandhu, Advocate,
for respondents no.2 and 3.

P.B. Bajanthri, J. (Oral)

1. In the present petition, petitioner has challenged the award passed by Labour Court dated 22.08.2014 (Annexure P/3).

2. Petitioner's services were engaged for the purpose of Tractor Driver in the month of November, 2000. His services were stated to have been terminated in the month of February 2005. Petitioner has raised demand notice on 27.02.2006. It is undisputed that respondents have not complied provisions of Industrial Disputes Act, 1947 before termination. The Labour Court dismissed the reference and passed award in favour of the management. Hence, the present petition.

3. Learned counsel for the petitioner submitted that petitioner has worked from November 2000 to February 2005. His service were abruptly terminated in the month of February 2005 without following provisions of Industrial Disputes Act, 1947. The same has not been appreciated by the

Labour Court even though petitioner had completed 240 days. Thus, Labour Court has erred in not granting benefit of reinstatement with continuity of service and back wages.

4. Per contra, learned counsel for the respondents while resisting the petitioner's claim submitted that there is a delay of about one year from the date of termination till issuance of demand notice. It was also contended that respondents have not terminated the services of the petitioner, on the other hand, he has abandoned the service. Therefore, question of termination do not arise. Petitioner was appointed on ad hoc basis, therefore, he has no right to reinstatement or any other benefit. Accordingly, there is no infirmity in the award passed by the Labour Court dated 22.08.2014.

5. Heard learned counsel for the parties.

6. Undisputed facts are that petitioner has rendered service from November 2000 to February 2005. Even though petitioner is an ad hoc employee, if he has abandoned the service, in that event, it was bounden duty of the employer / respondents to issue notice for recalling his service. That apart no action has been taken for remaining absence which is the statement of the respondents. Since there is a delay of about one year from the date of termination till issuance of demand notice and further petitioner is no more in service from February 2005, therefore, question of reinstatement do not arise. Accordingly, award passed by the Labour Court dated 22.08.2014 is modified to the extent that petitioner is entitled to compensation of Rs. 2 lacs. Compensation amount shall be disbursed by the respondents within a period of four months from today, failing which petitioner is entitled to interest @ 6% per annum from today.

7. Petition stands disposed of accordingly.

January 29, 2018
vkd

[P.B. Bajanthri]
Judge

Whether reasoned / speaking : Yes

Whether reportable : No