

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

CWP-6479-2014 (O&M)

Date of Decision: 16.04.2018

Maharaja Aggarsain Institute of Medical Research and Education, Agroha
and another ... Petitioners

Vs.

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

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

Present : Mr. R.B. Garg, Advocate
for the petitioners.

Mr. R.S. Sharma, Advocate
for respondent No.2.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioners have challenged the award passed by the Labour Court dated 01.08.2013 (Annexure P-1)

2. Respondent No.2 is stated to have been appointed as Beldar-cum-Mali on 12.3.2006 on daily wages basis. He has worked upto 12.12.2006. His termination was subject matter of reference No.27 of 2010. Labour Court held that respondent No.2 is entitled to reinstatement with consequential benefits on the score that there is violation of Section 25-F of the Industrial Disputes Act, 1947 (for short "the ID Act"). Undisputedly, respondent No.2 has worked for about 215 days. Whereas holidays have been taken into consideration for the purpose of computing 240 days.

3. Learned counsel for the petitioner submitted that holidays/weekly rest cannot be counted for the purpose of computing 240 days under Section 25-B (a) read with explanation to the Industrial Disputes Act. He relied on the judgment of the Supreme Court in the case of

Workmen of American Express International Banking Corporation v.

Management of American Express International banking Corporation;

AIR 1986 SC 458 to contend that calculation of Sundays and paid holidays cannot be taken into consideration for the purpose of computing 240 days. Perusal of Section 25-B (a) read with the explanation, it is evident that for counting 240 days, employee must have actually worked under the employer. In the present case, undisputedly, respondent No.2 has worked under the employer for 215 days as is recorded by the Labour Court in para-13. In view of the interpretation of Section 25-B of the ID Act in the aforesaid decision of the Supreme Court, Labour Court has erred in counting holidays/weekly rest for the purpose of computing 240 days. Accordingly, award passed by the Labour Court dated 01.08.2013 is set aside. At this stage, learned counsel for the petitioner submitted that respondent No.2 has worked for about 215 days and pursuant to the order dated 3.4.2014, petitioners have paid a sum of Rs.1,00,000/- to the respondent No.2-workman through the Registry of this Court and it is stated to have been disbursed to respondent No.2.

4. In view of the above development, petition stands allowed. Respondent No.2 is entitled to compensation of Rs.1,00,000/- only which has been paid to him.

16.04.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**