

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-4860-2016 (O&M)
Date of Decision:-25.01.2018.

Administrator Vaish Education Society, Rohtak and another

.....Petitioners

Versus

State of Haryana and others

.....Respondents

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

Present: Mr. M.K. Mittal, Advocate for the petitioners.

Mr. Rajesh Gaur, Additional A.G. Haryana.

Mr. S.K. Hooda, Advocate for respondent No.4.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the award passed by the Labour Court dated 01.12.2015 (Annexure P-5).

Respondent-workman was appointed as Peon on 27.9.2011. His services were abruptly relieved on 28.6.2013. Consequently, he raised a demand notice on 26.7.2013 and industrial dispute. Award was passed by the Labour Court on 01.12.2015. Hence, the present petition.

Learned counsel for the petitioner raised preliminary objection that Labour Court has no jurisdiction in respect of respondent-workman's service condition in the petitioner-college with reference to Annexure P-6 stating that respondent-workman has remedy against the order of termination before the Education Tribunal. During pendency of this

petition, respondent-workman has been taken back to duty.

Per contra learned counsel for the respondent while resisting the petitioners' claim pointed out from Annexure R-4/2 dated 2.3.2015 to the extent that Annexure P-6 dated 7.5.2013 is distinguishable with reference to title of the institution like schools and colleges. Notification dated 7.5.2013 is relating to schools whereas Notification dated 2.3.2015 is relating to colleges. Since respondent's services were dispensed on 28.06.2013, therefore, as on 2.3.2015, respondent had remedy before the Industrial Tribunal. Thus, petitioners have not made out a case so as to interfere with the award passed by the Labour Court dated 01.12.2015 (Annexure P-5). It was also submitted that respondent has been taken back to duty, therefore, what remains is payment of 50% back wages and extending benefit of continuity of service for which he is entitled to.

Heard learned counsel for the parties.

Crux of the matter in the present petition is whether Labour Court has jurisdiction to entertain the grievance of the respondent-workman or not. No doubt respondent-workman was working with the petitioners' institution – college. Having regard to the Notifications dated 7.5.2013 and 02.03.2015, Labour Court has jurisdiction in respect of workman in a college – institution upto 1.3.2015 in respect of service condition. Whereas, in the present case, respondent-workman's service conditions which were disputed is relates back to 28.6.2013. Therefore, Labour Court has jurisdiction upto 1.3.2015 whereas, the Notification dated 7.5.2013 which was relied on by the petitioner is restricted to only aided schools and not colleges as is evident from the Notification dated 7.5.2013 and 2.3.2015

raised by the petitioner is hereby rejected. In view of the latter development that respondent-workman has been taken back to duty, consequently, he is entitled to continuity of service and 50% back wages. Petitioners are hereby directed to calculate 50% back wages and disburse the same to the respondent-workman within a period of 3 months from today, failing which petitioners are liable to pay interest @ 8% per annum from today.

With the above observations, petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

January 25, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.