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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-25704-2018

Date of Decision : October 05, 2018.

M/s Punjab Machinery Store

.... Petitioner.

Versus

The Presiding Officer, Industrial Tribunal, Ludhiana
and another.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Vaneet Kumar Sharma, Advocate
 for the petitioner.

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 for quashing award dated 1.8.2018 (Annexure P/5), whereby respondent no.2 was reinstated with continuity of service and full back wages.

2. Facts relevant for the purpose of decision of this writ petition; that respondent No. 2 worked as Clerk Maker with the respondent-Management from 1.4.2002 till 31.3.2011 continuously, when his services were illegally terminated without issuing any show cause notice or payment of retrenchment compensation. The petitioner raised industrial dispute and on the basis of that reference was made to the learned Tribunal.

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3. Management had taken the plea before learned Tribunal that the respondent is not covered under the definition of “workman”. It was not a case of termination, but a case of voluntary leaving of family work and learned Industrial Tribunal returned the finding that in view of admission statement having been made by Management Witness-Varun Sharma and as per audit report of the petitioner-firm, respondent was covered under the definition of “workman” and he had served the management for a period from 01.04.2002 to 31.03.2011 and his services were illegally terminated and as such ordered for reinstatement with continuity of service and back wages.

4. At the time of arguments, learned counsel for the petitioner has taken the same pleas that the respondent was not covered under the definition of 'workman' and the Industrial Tribunal has not considered this fact while pronouncing the award.

5. Having considered the submissions made by learned counsel for the petitioner and appraisal of the record, this Court is of the considered view that undisputedly, respondent had worked continuously from 01.04.2002 to 31.03.2011 and he was getting wages for the same. Respondent-workman is certainly covered under the definition of 'workman' and the petitioner was covered under the definition of 'industry' and there existed relationship of master and servant between the parties. Learned Industrial Tribunal has rightly placed reliance upon the statement so made by the only witness examined by the management i.e. Varun Sharma. Audit report was also rightly relied upon by learned Industrial Tribunal

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wherein the respondent-workman was getting salary from the petitioner-firm and taking into consideration all these facts, learned Tribunal has ordered for reinstatement of the workman with continuity of service and back wages.

6. There is no ground to interfere in the impugned award passed by the learned Tribunal. There is no merit in the present writ petition and the same stands dismissed *in limine*.

(SHEKHER DHAWAN)
JUDGE

October 05, 2018.
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes