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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-9953-2014

Date of Decision : October 16, 2018

Shishan Kumar

.... Petitioner.

Versus

Presiding Officer, Labour Court,
Ambala and another.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. J.S.Khattar, Advocate
 for Mr. Deepak Sharma, Advocate,
 for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.
for the respondents.

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 2.6.2011 (Annexure P/4) passed by Labour Court, Ambala (for short, "learned Labour Court"), whereby the reference of the petitioner was rejected.

2. Facts relevant for the purpose of decision of this writ petition; that the petitioner was working as a Helper in Primary Health Centre, Phathreri. He worked from January, 2002 to 1.4.2005 and thereafter his services were terminated without issuance of any show cause notice or

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payment of retrenchment compensation as required under Section 25-F of the Industrial Disputes Act, 1947 (for short “the Act”).

3. Petitioner raised industrial dispute and reference was made to learned Labour Court. The Labour Court after considering rival contentions of the parties, returned the finding that there is no relationship of employer and employee between the parties because there was some job of drug distribution on voluntary basis and the petitioner was not getting any salary even. There was no formal appointment of the petitioner and he was doing some job on the basis of oral instructions, but there is no record with the respondent-Management on that point.

4. At the time of arguments, learned counsel for the petitioner contended that the petitioner served the Management for a period of more than three years, but he has not been paid any salary and his services have been terminated without any valid reason or without payment of retrenchment compensation.

5. Learned counsel for the respondent-Management contended that the writ petition is absolutely without any merit and there are no grounds to interfere with the findings returned by learned Labour Court.

6. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that if the case of the petitioner is taken at its face value, he was discharging the duties of drug distribution on voluntary basis meaning thereby that he was not entitled to get any wages and in fact, he was not paid any wages for a period of three years. The respondents have come

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with the plea that there was no such sanctioned post and he was not employed as workman at any point of time and as such, there is no question of termination of his services. That being so and the petitioner being unable to lay his hands on any such document or material so as to establish his employment with the respondent, or relationship of employer and employee between the parties, learned Labour Court has rightly decided the controversy and there is no scope for interference by this Court in exercise of writ jurisdiction.

7. In view of the above, there is no merit in the present writ petition and the same stands dismissed

(SHEKHER DHAWAN)
JUDGE

October 16, 2018.
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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes