

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 28779 of 2018

Date of Decision: 15.11.2018

Rajbir

...Petitioner

Vs.

The Presiding Officer, Labour Court, Ambala & Ors ...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. J.S. Cooner, Advocate for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

1. Issue notice of motion to respondent No.2 & 3.
2. On the asking of the Court, Mr. Rohit Arya, Assistant Advocate General, Haryana accepts notice on behalf of the respondent Nos. 2 & 3-State.
3. Heard the parties for final disposal.
4. The award dated 07.06.2017 passed by the Presiding Officer, Labour Court Ambala reeks of injustice done to the petitioner who has so far faced four rounds of termination from service. The last one in the year 2014 against which he raised the present dispute. Conciliation failed to bring about a settlement and accordingly Reference No. 188/2016 was made to the Labour Court for adjudication. The Labour Court has picked up the facts no longer relevant from the previous litigation by the petitioner and one Bhor Singh in CWP No. 20275 of 2003 and muddled them with the facts of this case observing that the petitioner-workman did not fulfill the

conditions of being regularized in service and to be reinstated. In the present case, the reference was not on regularization but whether the termination brought about on 10.08.2014 was legal and valid.

5. The grouse of the petitioner was based on non-compliance of the mandatory provisions of 25-F, 25-G & 25-H of the Industrial Disputes Act, 1947 at the time of termination, all of which issues have been lost sight of in the impugned award in the short and cryptic concluding part on findings on issues Nos. 2 to 6. In the previous litigation, the petitioners may have sought regularization but the dispute there was not one of termination of service as they were working with the management. The petitioner was duly appointed as a worker in 1996 and his services were terminated on 01.05.1999. He was taken back in service by the Forest Department in 2001 and he was again retrenched in 2002 and taken back in service on 08.01.2003 in view of compromise arrived at between the parties before the Conciliation Officer in conciliation proceedings. His services were again terminated on 2004 and was taken back in service in 2006 and then again in 2014 was retrenched which has led to the present reference.

6. The fundamental flaw in the award is that reference has not been answered as per its terms. The Tribunal has travelled beyond the terms of reference. Therefore, the award is not sustainable in the eyes of law.

7. Instead of wasting any further time in this litigation, in case

reply of State is called, it would be far more satisfactory to serve the ends of justice to set aside the award at the threshold and remand the matter back for passing a fresh award in accordance with law.

8. The petition is allowed. The award is quashed. The case is remanded.

9. Parties are directed to put in appearance before the learned Tribunal on 11.12.2018 for further proceedings on the materials already on record. If further evidence is required or felt necessary to do justice, the learned Tribunal will take a call.

(RAJIV NARAIN RAINA)
JUDGE

15.11.2018

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Whether speaking/reasoned : *Yes*
Whether reportable : *No*