

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

LPA No.449 of 2013 (O&M) in
Civil Writ Petition No.462 of 2000
Date of Decision: July 25, 2018

Sohan Lal

...Appellant

Versus

The Presiding Officer, Labour Court, Patiala & another

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Manu K. Bhandari, Advocate,
for the appellant.

Mr. Kanwalvir Singh Kang, Advocate,
for respondent No.2.

AMIT RAWAL, J.

Workman remained unsuccessful before the Labour Court and learned Single Bench against his alleged termination.

Workman alleged that he had worked as SYCE with the Yadvindra Public School, Patiala- respondent No.2 for six years, six months and twelve days. His services were allegedly terminated on 14.09.1995 without holding any inquiry or payment of retrenchment compensation and thus, raised demand notice dated 17.09.1996 Ex.W/1. The Labour Court, on the basis of the evidence brought on record, rejected the reference on the premise that the name of the appellant did not figure in

the original attendance and payment wages register of the employees maintained by the management for the period from 1992 to December, 1995. Writ petition preferred before this Court was also dismissed.

Mr. Manu K. Bhandari, learned counsel representing the appellant submitted that the Labour Court and the learned Single Bench have erred in dismissing the reference and as well as the writ petition without looking into the fact that the witness of the management had admitted that the maintenance of the Horse Riding Club of the School was handed over to one Matla Ram. Appellant produced on record the attendance and salary registers maintained by respondent No.2, but the same have been rejected on the ground that these were photocopies, thus, not proved in accordance with law, therefore, an adverse inference had been drawn. The management should have been fastened with the onus to produce some Kans Raj, employee of the school, who could not have appeared as a witness in favour of the appellant being employee. Respondent school resorted to falsehood, which fact had been demonstrated from documents Annexure LPA-1 sought to be placed on record by way of additional evidence, which showed that Matla Ram was not contractor of the Horse Riding Club as alleged by the witness of the management.

Mr. Kanwalvir Singh Kang, learned counsel representing respondent No.2 submitted that there was no relationship between employer and the employee and workman Sohan Lal did not work with the school. The original registers brought on record pertaining to the period aforementioned did not reflect his attendance or payment of the salary, thus, the workman failed to discharge the onus of having worked with the management, thus, urged this Court for dismissal of the appeal by upholding

the findings of fact and law arrived at by the Labour Court and the learned Single Bench.

We have heard learned counsel for the parties, appraised the paper book and are of the view that there is no force and merit in the submissions of Mr. Manu K. Bhandari, for, MW-1 O.P. Kalra, witness of the management, had brought on record the original record pertaining to the period during which the workman alleged to have worked, but the name of the appellant did not figure. If the workman had any apprehension that the management would withhold the record, he should have moved an application for production of the documents. In case such an application was moved and the record was produced, perhaps there would not have any occasion for the Labour Court to draw an adverse inference. In the absence of the same, we are of the view that the workman had failed to rebut the onus discharged by the management, thus, could not prove the relationship of employer and employee. In such circumstances, the Labour Court had no occasion but to reject the reference, which has been upheld by the learned Single Bench. Even the additional documents placed on record are also photocopies and an attempt has been made to bring on record the statement of the management contrary to the additional evidence sought to be placed on record.

We are afraid, the aforementioned evidence pales into insignificance as no original record has been placed on record to prove that appellant was ever employed or worked as a workman with the management.

As an upshot of the aforementioned findings, we do not find any illegality or perversity in the order under challenge. No ground for

interference is made out. Resultantly, by upholding the impugned order, the Letters Patent Appeal is dismissed. Consequently, the application for additional evidence is also dismissed.

(RAJESH BINDAL)
JUDGE

(AMIT RAWAL)
JUDGE

July 25, 2018

ramesh

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No