

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

LPA No.1164 of 2015 (O&M)

Date of Decision: 07.09.2018

Gurdev Singh

...Appellant

VS.

Presiding Officer, Industrial Tribunal, Bathinda & Ors. ... Respondents

**Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Sudip Ahluwalia**

Present: Mr. AS Manaise, Advocate for the appellant

Mr. Sandeep Virmani, Addl. AG Punjab

Mr. Meher Singh, Advocate for respondent No.3

SURYA KANT J. (Oral)

(1) This Letters Patent Appeal assails the order dated 17.03.2015 whereby learned Single Judge dismissed the appellant's writ petition and has upheld the award dated 19.09.2011 passed by Industrial Tribunal-cum-Labour Court, Bathinda vide which the Reference was answered against the appellant. Reference made to the Labour Court was to the effect "*whether termination of services of workman Gurdev Singh is justified and in order? If not so, to what relief he is entitled?*".

(2) The appellant was engaged as a Tree Guard by the Panchayat Samiti of Kot Ise Khan on 05.04.1994 and his services were terminated w.e.f. 01.10.1998. The case of the appellant before the Labour Court was that since he had worked for 240 days, he could not be retrenched without complying with Section 25-F of the Industrial Disputes Act, 1947.

(3) The appellant's claim was contested by Panchayat Samiti-Management on the ground that there was a complaint of illegal felling of trees allegedly in collusion and connivance with some persons. The

complaint was received by the BDPO, Kot Ise Khan. Enquiry was ordered in the matter and notices Ex.M19, Ex.M20, Ex.M22 were issued to the appellant by the Inquiry Officer but he refused to receive the same. However, notice Ex.M21 dated 07.05.1999 was duly received on the appellant and he appended his signatures but still he did not appear before the Inquiry Officer. Eventually, the appellant was found guilty of conniving with the persons who had committed the theft of trees. His services were thus dispensed with.

(4) The above-stated version was accepted by the Industrial Tribunal with a categoric finding that the appellant refused to participate in the enquiry hence it cannot be said that his services were dispensed with illegally.

(5) As regard to the appellant's claim that he had worked for 240 days which included Saturdays and Sundays, learned Labour Court came to the conclusion that he had worked for 238 days only.

(6) Both the concurrent findings of fact have been affirmed by the learned Single Judge.

(7) Learned counsel for the appellant vehemently contends that the evidence on record including the oral statement of the Management representative has been overlooked by the Labour Court as well as learned Single Judge to the effect that no charge-sheet was served on the appellant. In our considered view, even in the absence of a formal charge-sheet, it has been categorically found that notice to inquire into illicit felling of trees was duly served on the appellant; he was asked to give his explanation and an enquiry was ordered in which the appellant, despite service, refused to participate.

(8) Mere denial by the appellant that no notice was received cannot be accepted, more-so when there is a concurrent finding of fact that he was duly served. The appellant was the Tree Guard. It was his duty to explain his conduct. He was working as a temporary hand and at best could be treated at par with a probationer. His work and conduct was not found satisfactory, hence his services were justifiably dispensed with. The other issue, namely, that the appellant worked for 238 days or 240 days becomes inconsequential, once he was found to have colluded with the persons who had committed the theft of trees.

(9) Having regard to the facts and circumstances of the case, no case to interfere with the order passed by learned Single Judge is made out.

(10) Dismissed.

(Surya Kant)
Judge

07.09.2018
vishal shonkar

(Sudip Ahluwalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No