

LPA No.1954 of 2017 (O&M)

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

LPA No.1954 of 2017 (O&M)

Date of decision:11.10.2018

Director Secondary Education, Haryana, Chandigarh
and others

... Appellants

Vs.

Satbir Singh Ranga and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Ms. Kirti Singh, Deputy Advocate General, Haryana
for the appellants.

Mr. Vivek Shama, Advocate
for the respondents.

Mahesh Grover J. (Oral)

C.M.No.4237 of 2017

For the reasons stated in the application which is duly
supported by an affidavit, delay of 26 days in filing the appeal is condoned.

C.M stands allowed.

LPA No.1954 of 2017 (O&M)

This appeal is directed against the judgment of learned Single
Judge dated 17.07.2017. One of the questions before Industrial Tribunal and
before the learned Single Judge in writ proceedings was of workman whose
reference questioning his illegal termination of service had been declined.
The workman, i.e., present respondent had been employed with the

appellants since 11.07.1986 but his services were dispensed with on 20.04.2000. He was again re-appointed on 27.11.2000 and worked upto 03.08.2004. Thereafter, he remained absent. The appellants contended that it was a case of abandonment of service whereas the workman contends that even though he was reporting for duty, the appellants manipulated the attendance register to show him as absent.

The Labour Court noticed the evidence produced by the appellants, particularly the attendance register from Ex.M-11 to Ex.M-28 to establish the workman's absence from 03.08.2004 to 26.07.2006. They also placed on record a letter dated 26.07.2006, (Ex.M29) sent through registered post urging the workman-respondent to join the duty. That apart movement register bearing No.739 dated 11.05.2010 (Ex.M-34) was also placed on record urging the workman to join the duty which he obviously did not do. To similar effect is the movement register dated 11.05.2010 (Ex.M-34) was produced to show that workman made no effort to join his duties.

Noticing all these facts as also the fact that the workman raised a demand notice on 15.03.2009 belatedly, even though cause accrued to him in 2004, reference was declined. The learned Single Judge duly noticed these facts but concluded wrongly that no evidence was produced by the appellants. There is not a whisper in the impugned judgment regarding the aforementioned pieces of evidence produced by the appellants before the Labour Court. Therefore, the learned Single Judge erred in proceeding on an erroneous impression of there being no evidence. Since the material

evidence produced by the appellants has totally been ignored by the learned Single Judge, the impugned judgment is un-sustainable.

On appraisal of the material, we are of the opinion that this evidence of the appellants has gone un-rebutted. Clearly the attendance register recorded the absence of the respondent-workman. Consequently, his case cannot be treated as that of a termination but it is a clear case of abandonment of service. Besides the reference was claimed after five years.

All these factors should have been considered cumulatively by the learned Single Judge while dealing with the writ petition. Having failed to do so, we are of the opinion that impugned judgment deserves to be set aside. We are also of the opinion that for his own fault, the workman cannot be granted compensation as has been granted by the learned Single Judge. The appeal, is therefore, accepted. The amount of ₹1,50,000/- deposited by the appellants before the Labour Court pursuant to the order dated 07.05.2018 are permitted to be withdrawn by them.

(Mahesh Grover)

Judge

(Amit Rawal)

Judge

11.10.2018

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No