

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

**LPA No.2302 of 2017 (O&M) in
CWP No.24484 of 2015
Date of Decision: 20.3.2018**

Ishwar Singh

..... Appellant

versus

**Presiding Officer, Industrial Tribunal-
cum-Labour Court, Hisar and others**

..... Respondents

**CORAM : HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE B.S.WALIA**

Present: Mr. Ranvir S. Chauhan, Advocate, Advocate for the appellant.

B.S.WALIA, J.

1. Intra-court appeal has been filed against order dated 5.9.2017 dismissing CWP No.24484 of 2015 filed by the appellant against award dated 26.8.2015.

2. Brief facts of the case leading to the filing of the intra-court appeal are that the appellant was appointed as a Driver on 26.9.2007 and joined service on 1.10.2007 on contractual basis for a period of six months or till regular appointment was made against the post, whichever was earlier. The appellant continued on the post. However, on 1.3.2010, his services were terminated. Thereafter, the respondents engaged one Dharamvir on contractual basis. The appellant raised an industrial dispute alleging violation of various provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act'). The Industrial Tribunal-cum-Labour Court, Hisar (hereinafter referred to as the 'Tribunal') held that the appellant was employed through outsourcing policy of the government on contract basis but the Labour Department, Haryana where the appellant was working could not be treated as 'Industry', therefore the appellant was not entitled

to the benefit of Section 25-F of the Act. The appellant challenged the award dated 26.8.2015 passed by the Tribunal before the learned Writ Court which too dismissed the writ petition holding that the Labour Department which was a State Government Department was not an Industry.

3. Learned counsel for the appellant contended that admittedly, the appellant was appointed as Driver for a period of 6 months but was continued in service for close to 3 years whereafter, his services were terminated without any notice or retrenchment compensation, whereafter, another person was appointed on contractual basis in derogation of the provisions of the Act. Learned counsel further contended that the findings of the Tribunal as well as the Writ Court that the Labour Department was not an Industry and consequently, the appellant was not a workman, was legally unsustainable.

4. We have considered the submissions of learned counsel for the appellant and are of the considered view that for the reasons as are mentioned hereunder, the appeal is without merit and is therefore, liable to be dismissed.

5. No doubt the appellant although appointed on contractual basis for a period of six months or till joining of regularly selected Driver whichever was earlier continued in service for close to three years uptill 1.3.2010 on which date his services were terminated whereafter, the respondents engaged one Dharamvir on contract basis. No doubt no retrenchment compensation or for that matter, notice was given to the appellant before terminating his services but the moot point for consideration is as to whether the respondent-Labour department falls within the definition of 'Industry' and secondly, whether the appellant falls within the definition of 'Workman'. Labour department is one of the departments of the State which primarily deals with ensuring strict implementation of the labour laws.

The Tribunal has jurisdiction to entertain only such type of cases where the establishment falls within the definition of 'Industry' and the employee falls within

the definition of 'Workman'. Hon'ble the Supreme Court in **Bangalore Water Works and Sewerage Board versus A. Rajappa, (1978)2 SCC 213** has held that any department which performs sovereign functions of the State is not covered under the definition of 'Industry' within the meaning of Clause (i) of Section (2) of the Act. Neither is it the appellant's case that the Labour Department where he was employed carries on business and trade or such other kind of activity which can be equated with business and trade. The Labour Department is basically required to ensure coordination with different government departments to ensure implementation of provisions of various labour enactments. In the circumstances, the Labour Department cannot be treated as Industry nor the appellant as workman as the work of the Labour Department is essentially sovereign in nature.

6. In the circumstances, no fault can be found with the order of the Writ Court dismissing the writ petition. Accordingly, finding no merit in the appeal, the same is dismissed in limine.

(RAJESH BINDAL)
JUDGE

(B.S.WALIA)
JUDGE

March 20, 2018

ps

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