

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

LPA-1339-2018 (O&M)

Date of decision:- 13.09.2018

ESIC Medical College and Hospital, Faridabad

...Appellant

Versus

Naresh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Mr. Anil Shukla, Advocate,
for the appellant.

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KRISHNA MURARI, C.J. (ORAL)

This intra-court appeal under Clause X of the Letters Patent has been filed by the appellant (petitioner therein) challenging the judgement and order dated 20.07.2018 passed by the learned Single Judge dismissing the writ petition challenging the award of the Labour Court.

2. Industrial dispute was raised by respondent No. 1 - workman claiming that he was appointed on 26.07.2014 as Staff Nurse by the appellant-employer and his services were terminated illegally on 08.05.2015 without assigning any reasons and without complying with the mandatory provisions. The case set up by the appellant-employer before the Labour Court was that the services of respondent No. 1-workman were through respondent No. 2-contractor and he was not directly employed and the termination had been carried out by the contractor and since the services were withdrawn by the contractor, there was no illegality. However, after analyzing the evidence brought on record, the Labour Court accepted the reference on the finding that the appellant-employer had failed to produce any evidence to support an assertion that there was any agreement with regard to outsourcing of the Nursing Staff.

3. Being aggrieved, the award was put to challenge before the learned Single Judge who dismissed the writ petition on the finding that there was no evidence to demonstrate that respondent No. 1-workman was working under the contractor and, thus, the case set up by the appellant-employer was not liable to be accepted.
4. During the pendency of this appeal, an application under Order 41 Rule 27 of the Code of Civil Procedure (in short CPC) has been made to bring on record certain additional evidence. Learned counsel for the appellant contends that the said evidence would conclusively establish that the services of respondent No. 1-workman were obtained by way of outsourcing. Apart from the issue as to whether the provisions of Order 41 Rule 27 CPC would be attracted to the proceedings arising in a Letters Patent Appeal, even otherwise the test prescribed by the said section for accepting additional evidence does not stand satisfied in this case, inasmuch as the documents which are sought to be produced were always in the knowledge and possession of the appellant. Further, there is no reason assigned as to why the same could not be produced before the Labour Court. Thus, we are not inclined to allow the application and take the documents on record, at this stage.
5. Having gone through the award of the Labour Court, we find no infirmity or illegality in the judgement passed by the learned Single Judge dismissing the writ petition which may require any interference.
6. The appeal is devoid of merits and accordingly stands dismissed in limine.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

13.09.2018
Amodh

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