

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

LPA No.203 of 2018 (O&M) in
CWP No.8642 of 1999
Date of decision : 27.03.2018

M/s Meham Cooperative Sugar Mills Ltd.

...Appellant

Versus

Presiding Officer-cum-Labour Court, Rohtak and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. S.K. Verma, Advocate for the appellant.

RAJESH BINDAL, J.

This order will dispose of two appeals bearing LPA Nos.203 and 278 of 2018. However, the facts are being noticed from LPA No.203 of 2018.

The order passed by the learned Single Judge, disposing of the writ petition filed by the appellant has been challenged by filing the present intra-court appeal.

Challenge before the learned Single Judge was to the award of the Labour Court, whereby the respondent-workman was awarded reinstatement with continuity of service and 25% backwages. Learned Single Judge modified the award and keeping in view the fact that the respondent-workman was not in service for the last more than two decades, directed payment of compensation of ₹ 2.5 lacs.

Learned counsel for the appellant has submitted that the Labour Court did not have jurisdiction as the workman could claim arbitration in terms of Section 102 of the Haryana Co-operative Societies Act, 1984 (for short '1984 Act'). He has further submitted that there is finding by the Labour Court that in Calendar year preceding the date of termination, the workman had not completed 240 days in service. Hence, there was no violation of provision of Section 25-F of the Industrial Disputes Act, 1947 (for short '1947 Act').

After hearing the learned counsel for the appellant, we do not find any reasons to interfere with the well-reasoned order passed by the learned Single Judge.

It is admitted case of the appellant that the respondent-workman had actually worked for 224 ½ days during the previous calendar year prior to the date of his termination on 28.03.1994. He had worked with the Management from 14.04.1990 till 28.03.1994. During the previous two years, he had worked 299 days and 288 days. It was admitted case of the Management that while calculating 224 ½ days during the calendar year immediately preceding to the date of termination, Saturday, Sunday and National Holidays had not been included.

As far as issue regarding remedy of arbitration being available to the workman is concerned, it is undisputed that when the demand notice was got issued by the respondent-workman, the Management did not take any steps to appoint Arbitrator. Once the Workman had raised certain claim, the matter could be referred to arbitration. Rather no efforts were made to settle the dispute as a result it was referred to the Labour Court. Even before the

Labour Court, the Management did not raise any plea regarding remedy of arbitration being available to the workman.

Learned Single Judge, keeping in view totality of circumstances, has modified the award of the Labour Court, instead of reinstatement with 25% backwages, directed for payment of compensation of ₹ 2.5 lacs to the workman.

If the workman had made a claim, may be in terms of the provision of the 1947 Act, that the Management very well knew that his claim could be examined in terms of Section 102 of the 1984 Act, they should have taken proper steps. Management is expecting illiterate workman to abide by all the provisions of law, but failing in its duty to do the same.

We do not find any error in the order passed by the learned Single Judge.

The appeals are dismissed.

(RAJESH BINDAL)
JUDGE

27.03.2018

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**