

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

LPA No. 479 of 2018 (O&M)

Date of Decision: 10.07.2018

Jagbir Singh

.....Appellant

versus

The Presiding Officer, Industrial Tribunal cum Labour Court-II, Gurgaon
and another

.....Respondents

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

Present : Mr. Sandeep Singal, Advocate, for the appellant.

KRISHNA MURARI, CHIEF JUSTICE (oral)

This is an intra-court appeal filed under Clause X of the Letters Patent against the judgment and order dated 05.02.2018 passed by the learned Single Judge whereby the writ petition preferred by the appellant-workman challenging the award made by the Labour Court dated 08.07.2013 had since been dismissed.

2. The case set up by the workman-appellant before the Labour Court was that he was appointed as a Helper/Baildar on daily wage basis on 01.11.1993 and served at Haryana Bhawan in New Delhi and his services were wrongly and illegally terminated by the respondents on 02.02.2002 without any notice or payment of retrenchment compensation and thus the same was in violation of Section 25(F) of the Industrial Disputes Act, 1947 (hereafter referred to as 'the Act'). It was also pleaded that certain persons junior to the workman were retained in service and fresh recruitment was also made and thus there was violation of the provisions of Section 25(F) of the Act.

3. The Employer-respondent contested the claim of the workman denying the claim. A specific case set up by the employer-respondent was

that he was engaged to work as daily wager on muster rolls and he was purely a casual labourer and was paid for the day he performed his work. It was categorically pleaded that no appointment letter was ever issued and there was no relationship of employer or employee and he left the job at his own will w.e.f. 03.02.1996. It was also denied that he ever completed more than 240 days of service in a calendar year and thus there was no violation of Section 25-F of the Act.

4. After considering the case set up by respective parties and the evidence brought on record, the Labour Court reached the conclusion that contrary to the claim made by the workman-appellant that he continuously worked from 01.11.1993 to 02.02.2002, it was proved that he actually served for the period from 01.11.1993 to 31.05.1994. A categorical finding has been returned by the Labour Court after analyzing the evidence on record that the workman was engaged as a casual labourer on daily wage basis with the respondent-employer and he never worked for more than 240 days in the last preceding 12 months from the date of termination and thus there was no violation of the provisions of Section 25-F of the Act.

5. Learned Single Judge also took the same view after analyzing the award of the Labour Court as well as the evidence whereupon the finding of the Labour Court was based.

6. We have heard learned counsel for the appellant and perused the record.

7. The case set up by the appellant-workman was that he was employed in 1993 and continued to work till 2002 when his services were terminated without any notice or payment of compensation. On the contrary, the case set up by the respondent-employer was that the workman was

employed as a casual labourer in the year 1993 and he himself left the job during May-1994 and never returned thereafter.

8. It is also to be taken note of that the workman in his own statement as PW1 deposed that his services were wrongly and illegally terminated on 03.02.1996. Thus, there was a total contradiction in the stand taken by the appellant-workman in his pleadings and the oral statement.

9. In view of the findings recorded by the Labour Court based on appraisal of evidence affirmed by the learned Single Judge that the appellant-workman failed to establish that he worked for more than 240 days in the last preceding 12 months, there is no violation of Section 25-F of the Act and there appears to be no illegality in the award of the Tribunal affirmed by the learned Single Judge rejecting the claim of the appellant-workman. Even before us in this appeal, nothing could be pointed out to demonstrate that the findings recorded by the Labour Court and affirmed by the learned Single Judge are in any manner perverse or contrary to the record.

10. In view of the above facts and discussion, we do not find any good ground to interfere with the impugned judgment of the learned Single Judge. The appeal thus bereft of merits stands dismissed in limini.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

10.07.2018

ravinder

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