

(126)

CM-9234-CWP-2018,
CM-9235-CWP-2018 in/and
RA-CW-173-2018 in
CWP-4815-2011

Om Parkash

Vs.

Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat and another

Present: Mr. R.K. Doon, AAG, Haryana.

CM-9234-CWP-2018

Heard.

Delay of 170 days in filing the Review application is condoned for the reasons stated in the application as well as affidavit.

CM stands allowed subject to all just exceptions.

RA-CW-173-2018

Instead of considering the interim prayer for staying the operation of the judgment, review application is heard on merit.

The review applicant has sought to review the judgment dated 26.10.2017 on the following grounds:-

“i) That the Ld. Single Judge erred in giving the findings that the petitioner would be entitled for granting the compensation of Rs.4,00,000/-, without considering the facts that the petitioner was daily wager and not a regular employee.

ii) That the Ld. Single Judge has failed to consider the fact that the conduct of the petitioner was not upto mark as he remained absent for about 2 years, 2 months and 18 days.

iii) That the Ld. Single Judge had further failed to consider the fact that petitioner himself admitted in para 10 of the award that the enquiry was conducted and his services were terminated on the basis of enquiry for remaining willfully absent.”

Review applicant has raised 3 contentions that petitioner is not entitled to compensation on the score that he was a daily wager and not a regular employee. Such a contention cannot be accepted for the reasons that if a regular employee's status is required to be considered, in that event, he is entitled to pay attached to the post held by him. Therefore, there is no infirmity or error in awarding compensation. It was further contended on merits that petitioner remained absent for 2 years 2 months and 18 days. This is serious misconduct for which respondents could have initiated disciplinary proceedings. What has been done is only a preliminary inquiry has been held, that too without hearing the petitioner. Therefore, the aforesaid contention is hereby rejected. It was also contended that in para 10 of the award, petitioner has admitted that termination is after inquiry. It is to be noted that no regular inquiry has been held. What has been held is only a preliminary inquiry that too without hearing the petitioner-workman. In support of the holding of inquiry and hearing the petitioner-workman no material has been produced even to this day. In view of these facts and circumstances and fact that review application could be entertained only if there is any error apparent on the face of record, review applicant has not made out a case.

Review application stands dismissed.

CM-9235-CWP-2018

In view of the order passed in RA-CW-173-2018 which is dismissed, present CM do not survive for consideration.

Accordingly, CM stands dismissed.

(P.B. BAJANTHRI)
JUDGE

July 25, 2018.
sandeep