

LPA No. 667 of 2019 (O&M)

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

**LPA No. 667 of 2019 (O&M)
Date of decision: 1.04.2019**

Geeta Chauhan

... Appellant

Versus

**Presiding Officer, Industrial Tribunal & Labour Court, and others
... Respondents**

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

Present: Ms. Geeta Chauhan, appellant in person.

ARUN PALLI, J. (ORAL)

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 26.11.2015, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant against an award passed by the Labour Court, dated 01.04.2011, declining her claim, has since been dismissed.

In brief, the case set out by the appellant-workman before the Labour Court has been that she was appointed on the post of Clerk on 30.01.1995 and continued to work as such up to 20.02.1996, without any break. However, her services were abruptly brought to an end on 20.02.1996, along with many others. The work and conduct of the appellant had been good throughout her service and as she had served for a period of 240 days in a calendar year immediately preceding her termination. Thus, termination of her services without any notice and compensation, was illegal. Consequently, she assailed her termination vide CWP No. 8850 of

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2001, which was disposed of by this Court, vide order dated 17.07.2003, relegating her to raise an industrial dispute. Therefore, she was required to be reinstated with continuity of service and full back wages.

In defence, it was pleaded by the respondent that, in fact, the appellant was wrongly appointed as Clerk on a non-existent post for 89 days on 30.1.1995 under JRY Scheme as also in violation to the provisions of the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959. Her service period was further extended by another spell of 89 days on 17.05.1995, w.e.f. 02.05.1995 to 29.07.1995. However, no further extension was granted and on completion of the second extension, her services were dispensed with owing to the fast dwindling contingency funds. Therefore, as the appellant-workman never completed 240 days in a period of 12 months immediately preceding her termination, thus the provisions of Section 25-F of the Industrial Disputes act, 1947 ('the Act' for short), were not attracted.

Upon a consideration of the matter and the evidence on record, the Labour Court concluded that except oral testimony, no cogent evidence was led by the appellant to prove that she actually served w.e.f. 30.01.1995 to 20.02.1996. On the contrary, Sh. Des Raj Gupta, Superintendent (Administration), MW1, testified in his deposition that pursuant to the last extension granted to the appellant, she continued up to 29.07.1995, and thus, she worked only for a period of 178 days from 30.1.1995 to 29.07.1995. Nothing was brought on record either that discontinuation of the appellant in service, on the expiry of the second extension, was an act of unfair labour practice or the management was inimical to the appellant in any manner. Therefore, as she did not complete 240 days, as envisaged under Section 25-F of the Act, termination of her services could not be said to be illegal. Not just that, though 65 Clerks were re-employed, pursuant to a publication in

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one of the newspapers, i.e. Punjab Kesari, on 31.05.2001 (Ex. W3) brought on record by the appellant, but she herself never responded thereto. Thus, owing to her negligence, she even lost the chance of re-employment. Accordingly, vide award dated 01.04.2011, the reference was answered against the appellant. Being aggrieved, she assailed the said award vide a writ petition, referred to above, which too has been dismissed. Thus, this appeal.

We have heard the appellant, who appears in person, and perused the records.

Ex facie, the appellant served from 30.01.1995 to 29.07.1995 and had thus barely worked for a period of 178 days. That being the position, provisions of Section 25-F of the Act were not even remotely attracted. No evidence was led by the appellant to prove that either any junior was retained in service at the time of termination of her services or there was any violation of the provisions of Section 25-H of the Act. Not just that, it was after six years, she questioned the validity of termination of her services, vide a writ petition (CWP No. 8850 of 2001), before this Court. Still further, as there existed an alternate remedy, this Court, vide order dated 17.7.2003, relegated the appellant to raise an industrial dispute, but again, the appellant slept over her rights, for she served the respondent-department with a demand notice two years thereafter in April, 2005.

Another factor that assumes significance, at this juncture, is that, though the appeal at hands is barred by 31 days, but there is also a gross, inordinate and unexplained delay of 968 days in re-filing the appeal. Thus, an analysis of the position, as sketched out above, leads to an irresistible and inescapable conclusion that the dispute raised by the appellant was not just stale but even speculative. And, that being so, we too

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are dissuaded to interfere with the award passed by the Labour Court as also the impugned order and judgment rendered by the learned Single Judge. Thus, the appeal being devoid of merit is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

April 01, 2019
AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: