

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

218

CWP-2500-2015

Date of decision: 03.09.2019

RAMESH

...PETITIONER

VS.

*MEDICAL OFFICER HEALTH, CHANDIGARH ADMINISTRATION AND
OTHERS*

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Varun Katyal, Advocate,
for the petitioner.

Ms. Deepali Puri, Advocate,
for respondents No. 1 and 2.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the Award dated 13.03.2012 (Annexure P-5) passed by the Industrial Tribunal and Labour Court, Union Territory, Chandigarh, whereby the reference has been declined of the petitioner-workman.

It is the contention of the learned counsel for the petitioner that the petitioner was appointed by the Medical Officer of Health, Chandigarh Administration, Chandigarh vide letter dated 07.06.1990 (Annexure P-1). He was offered a job of Labourer-cum-Safaiwala on daily wages as per the rate fixed by the Chandigarh Administration from time to time. Petitioner joined the duty and was continuous in service with the Market Committee, Chandigarh when his services were terminated on 31.12.1993. It is, therefore, asserted by him that the said termination was oral without

complying with the mandatory provisions of the Industrial Disputes Act despite the petitioner having worked with the respondents for a period of more than almost three years. He, thus, contends that the findings, as recorded by the Labour Court, are unsustainable as the Labour Court has ignored the fact that the appointment letter has been issued by the Medical Officer of Health, Chandigarh Administration and, therefore, irrespective of the fact that he has been deputed with the Market Committee, Chandigarh Administration, he continued to be an employee of the Health Department, Chandigarh Administration, as such the competent authority to pass an order of termination would be the said authority only and not the Market Committee.

Counsel for the petitioner contends that an application was preferred by the petitioner before the Labour Court for impleading the Secretary, Market Committee, Chandigarh as a party but the said application was dismissed by the Labour Court vide order dated 22.07.2009, because of which, right of the petitioner has been prejudiced as he has not been able to prove his period of service in the Market Committee where he was performing his duties as per the orders of the Medical Officer, Department of Health. He, thus, contends that the Award impugned cannot sustain and deserves to be set aside.

On the other hand, counsel for respondents No. 1 and 2 states that as per the averments of the petitioner, his services were terminated on 31.12.1993 but he preferred a demand notice on 11.07.2005 after a period of 11 years. She contends that the delay itself would be a good ground for not interfering with the reference which has been made, rather the reference itself was not maintainable and was liable to be dismissed on the ground of

inordinate delay of more than 11 years, which has been rightly so observed and findings returned by the Industrial Tribunal-cum-Labour Court. Assertion has also been made that no document has been produced by the petitioner before the Labour Court which would show that he had performed his duties with the Market Committee, Chandigarh.

As far as the Department of Health is concerned, he was admittedly appointed initially by the Medical Officer, Health but he was appointed under Rural Sanitation Scheme and, therefore, was deputed with the Market Committee, Chandigarh. She, therefore, contends that the Award has been rightly passed by the Labour Court being based upon the pleadings which do not call for any interference.

I have considered the submissions made by the learned counsel for the petitioner as well as the counsel for respondents No. 1 and 2 and with their assistance, have gone through the impugned Award but do not find myself in agreement with the contentions of the counsel for the petitioner.

It is an admitted fact that there is nothing on record which would indicate that the petitioner has performed his duties even with the Market Committee, Chandigarh. The admission is only limited to the extent of he being deputed under the Scheme to the Market Committee but no records have been brought on record which would have substantiated the contention of the petitioner that he had performed his duties with the Market Committee. Unfortunately for him, an application, which was filed for impleading the Market Committee as a party, stood dismissed on 22.07.2009 which order has not been challenged in the present writ petition.

Petitioner has also failed to produce any records of the Market Committee

which would substantiate the plea that he had been working with the said Market Committee. In the absence of any evidence that the petitioner had worked and performed his duties while he was deputed with the Market Committee, the conclusion, as drawn by the Labour Court on the basis of the pleadings and the evidence on record, cannot be faulted with.

As regards the inordinate and unexplained delay on the part of the petitioner in submitting his demand notice, the conclusion again drawn by the Labour Court cannot be faulted with as there is no explanation forthcoming with regard to the said aspect when the delay is more than 11 years.

Thus, finding no merit in the present writ petition, the same stands dismissed.

September 03, 2019

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No