

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

LPA No. 271 of 2010 (O&M)

Reserved on : 09.07.2019

Date of decision : 29.07.2019

Field Marshal Manek-Shaw Auditorium, Western Command Chandi
Mandir, District Ambala and another

.... Appellants

Versus

Presiding Officer, Labour Court, Ambala and another

..... Respondents

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Vivek Singla, Advocate, for the appellants.
Mr. Ram Naresh Ojha, Advocate, for respondent No.2.

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RAJIV SHARMA, J.

1. This Letters Patent Appeal is instituted against judgment dated 03.08.2009, rendered by learned Single Judge in CWP No. 10526 of 1999.
2. The brief facts necessary for adjudication of this appeal are that respondent No.2 – workman was engaged as Sweeper on temporary basis with the appellant Management in the year 1978. She filed a civil suit for regularisation of her services in the court of Sub Judge Ist Class, Ambala City. Her services were terminated vide order dated 06.04.1995 with effect from 07.05.1995. She raised an industrial dispute. She filed claim petition. According to her, she had completed 240 days in a calendar year, preceding her termination. The claim was contested by the appellant Management before the Labour Court. The principle stand taken by the appellant Management was that services of respondent No.2 – workman were

terminated in accordance with para No.7 of the Standing Orders. It was also pleaded that provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for brevity sake) were not applicable. The workman filed replication to the written statement filed by the Management. The learned Labour Court framed the following issues :-

- (1) Whether the termination of services of Smt. Shanti Devi is invalid and illegal as alleged ? OPM
- (2) Whether this court has no jurisdiction ? OPM
- (3) Whether the management does not come in the definition of industry ? OPM
- (4) Relief.

3. The workman appeared as WW.1. According to her, she was engaged as Sweeper in the year 1978. Her work and conduct was satisfactory. She was removed from services without issuing any show cause notice or holding any domestic enquiry. She was not even paid retrenchment compensation. The work was available with the Management.

4. The Management examined E.G. Madhu Raj as MW.1. According to him, the workman was engaged on temporary basis. She was given one month notice Ex.M2. The Management institution was running in losses.

5. The workman duly proved before the Labour Court in Reference No. 14/1996 that she had completed 240 days of continuous service in 12 months preceding her termination. Section 25-F of the Act was not followed by the Management. The Management has rightly been held to be an industry within the definition of Section 2 (j) of the Act. Respondent No. 2 was 'workman' within the meaning of Section 2 (s) of the Act. The

Management was carrying systematic activities. It is in these circumstances that the Labour Court vide award dated 29.01.1999 had ordered reinstatement of the workman with continuity of service and 40% back wages.

6. The learned Single Judge has correctly appreciated the ratio of judgment of the Bombay High Court which has relied upon **The Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and others, 1978 II ILJ 73.** It was necessary for the Management to comply with Section 25-F of the Act. The learned Single Judge has correctly appreciated the oral as well as documentary evidence. The learned Single Judge, instead of ordering reinstatement of the workman, has rightly ordered compensation of ₹ 1 lac to the workman. We see no merit in this Letters Patent Appeal.

7. Accordingly, this Letters Patent Appeal is dismissed.

(**RAJIV SHARMA**)
JUDGE

July 29, 2019
ndj

(**HARINDER SINGH SIDHU**)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No