

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA-1472-2017(O&M)
Date of decision : 30.10.2019

M/s CBN Foundation

... Appellant

Versus

The Presiding Officer, CGIT-cum-Labour Court-I, Gurgaon and another

... Respondents

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

Present: Mr.Akshay Bhan, Senior Advocate with
Mr.Shantnu Bansal, Advocate
Mr.R.R.Kumar, Advocate,
Mr. Deepak Verma, Advocate
for the appellant.

Mr.Anil Mehta, Advocate
for respondent no.2.

RAJIV SHARMA, J.

This Letters Patent Appeal is instituted against the judgment dated 15.05.2017 rendered by the learned Single Judge in CWP no.2207 of 2016.

2. The brief facts necessary for adjudication of this appeal are that respondent no.2 (hereinafter referred to as “respondent-workman”) was appointed on 01.07.2007. His services were terminated on 10.09.2012. He raised an industrial dispute. Reference was made to the Industrial Tribunal-cum-Labour Court. The Tribunal after framing issues answered the reference in favour of the respondent-workman. The appellant-Management challenged the Award by way of CWP no.2207 of 2016. It was dismissed by the learned Single Judge on 15.05.2017.

3. According to the learned counsel for the appellant-Management, the respondent-workman was neither workman within the ambit of Section 2 (s) of the Industrial Disputes Act, 1947 (hereinafter referred to as “the Act”), nor the appellant was industry within ambit of Section 2(j) of the Act.

4. The fact of the matter is that the workman was transferred from one organization to another organization. He was served with notice. He filed reply to the notice. Thereafter his services were terminated on 10.09.2012. One of the appellant-management's witness has admitted that the appellant had Studio in Sector 43, Gurgaon where telefilms were also made. We have also gone through the appointment letter of the workman. The respondent-workman falls within the ambit of Section 2(s) of the Act. There is no merit in the contention of learned counsel for the appellant-Management that the respondent was engaged as preacher because he could not be appointed on probation. The appointment letter partakes the characteristic of the respondent being a workman.

5. Learned counsel for the appellant-Management has also argued that the learned Tribunal has not taken into consideration the plea for leading additional evidence under Section 11-A of the Act. The learned Single Judge has held that no such plea was taken before the learned Tribunal. It is in these circumstances, the learned Single Judge has dismissed the writ petition.

6. The learned Tribunal has ordered the reinstatement of workman in service for non-compliance of Section 25-F of the Act with 40% wages. It is settled law if there is loss of confidence, the reinstatement cannot be

ordered. However, it is case of non-compliance of Section 25-F of the Act. Learned counsel for the appellant-Management has also argued that it is case of mis-conduct but no inquiry has been held against the respondent.

7. We do not see any infirmity and perversity in the judgment dated 15.05.2017 of the learned Single Judge. Accordingly, there is no merit in the appeal and the same is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

October 30, 2019.
Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No