

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 22136 of 2014

Date of Decision: 07.02.2019

M/s Bareta Gas Services

...Petitioner

Vs.

Presiding Officer and another

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Arihant Goyal, Advocate for
Mr. Ramesh Goyal, Advocate
for the petitioner.

Mr. Dinesh Mahajan, Advocate
for respondent No.2.

RAJIV NARAIN RAINA, J. (Oral)

1. Defence plea of manufacturing a false agreement of service contract with higher pay by the applicant-workman was set up by the petitioning management in resistance to the proceedings under Section 33 C (2) of the Industrial Disputes Act, 1947, which agreement the Labour Court records has not even seen the light of the day. If the stand of the workman in these proceedings was false then his entire version stands discredited. There were serious allegations against the workman of issuing duplicate domestic consumer cards without the knowledge of the petitioner in the name of unknown consumers to whom gas cylinders were supplied. The workman was a Manager of the gas agency; with the owner living in some other city and coming to know of defalcations and trumped up consumer cards of non-existing consumers

only after discovery after the workman absconded from work. The plea of the Management was that they did not terminate the services of the workman. After 12.11.2007, the workman never returned to work. In these circumstances, the preponderance of probabilities lies in favour of the Management that they had no occasion to comply with Section 25F of the Act nor could they be compelled to charge sheet the workman and hold an enquiry into misconduct.

2. Notice of motion was issued in this case on the statement of the petitioner Management that they were ready to take the workman back in service provided the respondent gave up his right to back wages. The award was stayed subject to Section 17-B. The workman has not come forward with an affidavit to claim last drawn wages deposing that he has not been gainfully employed elsewhere. I take this as a circumstance against the workman and assume that he is working elsewhere gainfully. The Labour Court has denied reinstatement. The workman is satisfied with that denial since he has not challenged the award. In lieu of reinstatement, the respondent has been awarded compensation of Rs.1,00,000/-. In the entire circumstances of the case, I am of the view that once the version of the workman has been falsified under Section 33 C (2) proceedings, his entire story stands falsified in reference proceedings under Section 10 read with Section 2A of the Act. The respondent has disentitled himself to any equitable relief and, therefore, the award is an overreach and deserves to be invalidated. The

award and the order has been passed on the same day by the same labour Court in the two proceedings, one claiming more salary than due based on a fudged service contract/letter of appointment and the other against the termination.

3. As a result, this petition is allowed and the award is set aside.

(RAJIV NARAIN RAINA)
JUDGE

07.02.2019

kv

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*