

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CWP-23794-2012 (O&M)
Date of decision: 17.01.2020

The Divisional Forest Officer (Territorial), Bhiwani
.....Petitioner

versus

Azad and another
....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Ms. Safia Gupta, AAG, Haryana
for the petitioner.

Mr. S.K. Verma, Advocate
for respondent No.1.

GIRISH AGNIHOTRI, J. (Oral)

The present petition has been filed by the petitioner-The Divisional Forest Officer (Territorial), Bhiwani, Tehsil & District Bhiwani, *inter alia* with the prayer to quash the impugned award dated 30.01.2012 (Annexure P-1).

Ms. Safia Gupta, AAG, Haryana, has made a reference to the award to submit that firstly, it was the stand of the Management that there was no sanction post of Beldar-cum-Mali. Secondly, she submits that the witness WW-2 namely Shri Chander Bhan, Forestor, Range Forest Officer Loharu, District Bhiwani, had given the statement that the remaining record which he could not bring, will not be produced in future.

It is the case of the petitioner that in fact the records/muster roll were available, but, the said witness purposely had not produced the same

before the Labour Court. She further goes on to submit that the said witness was chargesheeted and later, he was imposed with the punishment vide order dated 12.05.2014. She then makes a reference to the Civil Miscellaneous Application No.10471 of 2018, filed by the petitioner, supported by an affidavit of Shri Rajesh Kumar, Divisional Forest Officer (Territorial), Bhiwani, through which, to show *prima facie* case, Annexure R-1 to R-2/1 to R-2/27 were placed on record.

A perusal of Annexure R-1 shows that it was the stand of the petitioner that the workman had actually not completed 240 days. .

However, learned counsel for the workman vehemently contends that the Management has been changing stands very frequently. He submits that in fact, it was the positive case of the workman that he had completed 240 days. He further submits that similarly situated employees are not only continuing but were made regular under the regularization policy.

This Court in the aforementioned circumstances, deems it appropriate that in the interest of justice, it is a fit case where the order passed by the Labour Court dated 30.01.2012, is set aside. The matter is remanded back to the Labour Court to grant two to four opportunities to the Management/petitioner to complete the entire evidence regarding muster roll and service record of the workman since 1998 till the alleged date of termination i.e. August 1999. The workman is at liberty to move any other application seeking production of any other relevant document. Considering the fact that in this case, the industrial dispute was raised many years back, the learned Labour Court is requested to expedite the hearing and decide the claim petition within one year from the date of receiving of

certified copy of this order. It also needs to be noticed that on 30.01.2012, the Labour Court had awarded reinstatement with 50% back wages and this Court on 21.08.2014, had stayed the operation of the award. Since the litigation has been prolonged because of non-production of relevant records before the Labour Court by the Management, it is deemed appropriate to award ₹50,000/- as litigation expenses before this Court and another ₹50,000/- for litigation proceedings before the Labour Court.

In view of the above, the present petition is disposed of.

(GIRISH AGNIHOTRI)
JUDGE

17.01.2020

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Whether speaking/ reasoned:

Yes

Whether Reportable:

Yes/No