

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25869 of 2016 (O&M)

Date of Decision: 07.01.2020

Education Officer, Panipat

... Petitioner

VS.

Kaptan Singh & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Ms. Safia Gupta, AAG Haryana

Mr. HPS Ghumman, Advocate for respondent No.1

GIRISH AGNIHOTRI, J. (Oral)

(1) The present writ petition has been filed by the petitioner – Education Officer, Panipat, *inter alia*, praying for quashing of the impugned order dated 30.09.2015 (P3). The workman had served the demand notice on 22.09.2008 therein alleging that he was working with the respondent as Sweeper w.e.f. 25.12.2002. It has been further alleged that the services of the workman were illegal terminated on 02.07.2007 without complying with the provisions of Section 25-F and other provisions of the Industrial Disputes Act, 1947. The Labour Court after giving due opportunity to the parties has recorded the finding to the following effect:-

“14. The demand notice in the present reference is dated 22.9.2008 which was submitted to District Education Officer, Office Near Lalbatti, Govt. Girls School, Panipat i.e. the respondent. Ex.MW1/5, Ex.MW1/7 and Ex.MW1/11 are the letters shown to have been written by the management to the workman stating that he had been absenting himself from duty without any intimation. But Ld. AR for the workman stated that the letter if delivered, acknowledgement should have been received back to the respondent and if not delivered, the registered letter must have been received back by the sender (respondent). In the present case, the situation has not been

clarified. The respondent not produced any slip regarding sending letters to the workman. Thus, in these circumstances, the letters were not sent to the workman.

*15. It is the case of the workman that he was forcibly removed from the service. It has come in the evidence that he gave demand notice to the management. **If he had the intention of leaving the services, why he immediately after termination of his services, filed the demand notice with the management with copy to the labour Department.** Even after direction from the Labour Department the workman was not taken on duty.”*

(2) This Court is of the view that there is no infirmity in the order passed by the Industrial Tribunal-cum-Labour Court dated 30.09.2015. This Court finds that there is a clear violation of the statutory provisions of the Act especially Section 25-F. The alleged date of termination admittedly is 02.07.2007. The demand notice was issued on 22.09.2008. There is nothing that has come on record that in between this period, a draft or cheque was prepared or any effort was made by the petitioner-management to pay to the workman the dues required under Section 25-F and also the demand notice.

(3) In view of the above, the order dated 30.09.2015 is upheld. However, considering the peculiar facts of the present case and the fact that the petitioner has already been reinstated and is in service, the ends of justice would be met in case the workman is ordered to be paid 25% of the backwages in modification of the order dated 30.09.2015.

(4) The writ petition stands disposed of accordingly.

07.01.2020
Vvishal

(Girish Agnihotri)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes
Yes