

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

**Sr. No.113**

**LPA-251-2021 (O&M)  
Date of Decision: 04.03.2021**

**M/S CENTURY AUTO ENGG PRIVATE LIMITED  
... Applicant-Appellant  
VERSUS**

**LAL CHAND AND ANOTHER  
... Respondents**

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI  
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr. Paul S. Saini, Advocate,  
for applicant-appellant.

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**RITU BAHRI, J.**

The appellant has come up in this appeal, against the judgment of learned Single Judge dated 27.01.2021, whereby the writ petition challenging the *ex parte* award dated 05.11.2019 passed by Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Gurugram, has been dismissed.

A perusal of the judgment passed by learned Single Judge shows that before the Labour Court, the petitioner-company (appellant herein) was being represented by one Bikram Singh, official of the company. He attended the proceedings before the Labour Court and in between he left his services with the company on 30.09.2015. The management was not vigilant and did not make any enquiry about the status of the pending case and the Labour Court after appreciating the material placed on record by the workman, held that his service had been terminated without following the proceedings of the Industrial Disputes Act.

The Labour Court has specifically observed that the workman was appointed on 01.06.2010, as Gas Operator and on 10.11.2014, his services had been terminated without giving him notice or retrenchment compensation or without conducting any domestic enquiry. Hence, the management had not complied with the provisions of Section 25 (f) of the Industrial Disputes Act.

The appellant had approached this Court by way of filing CWP-22292-2020, and even in this writ petition, the appellant herein had admitted in paragraph No.3 that the workman (respondent No.1 herein) was appointed as Gas Operator w.e.f. 01.06.2010 and in paragraph No.6 of the said writ petition, appellant herein had admitted that the appellant-petitioner/company also informed the workman in the first week of October 2014, that his services would be dispensed with/discontinued after one month being no longer required by the company.

Learned counsel for the appellant has vehemently argued that the workman had never worked for 240 days in a calendar year. He further submits that if an opportunity is granted and the matter is remanded back to Labour Court, then he can give evidence to show that the workman has not worked for 240 days in a calendar year w.e.f. 01.06.2010 till November, 2014. Since in the present case, as well as in the writ petition, no details of his actual working days have been placed on record, the Labour Court as well as this Court, were right in coming to the conclusion that the appellant herein has not

placed on record any document to show that the workman had not worked for 240 days in a calendar year w.e.f. 01.06.2010 till November, 2014. Apart from this, the appellant-company has also admitted that the workman has worked for 240 days in a calendar year from 01.06.2010 till November 2014 with the management. The finding given by this Court does not require any interference. The argument of learned counsel for the appellant that the onus to lead evidence about working for 240 days in a calendar year is on the workman is correct. However, learned counsel for the appellant-company neither before the Labour Court, nor at the time of filing of the writ petition, was able to lead any evidence to show that the workman had not worked for 240 days in a calendar year and hence this cannot be made a ground to set aside the judgment.

There was no Annexure in the aforesaid writ petition to show that the workman had not completed 240 days in calendar year from 01.06.2010 till his termination in November 2014. This Court while dismissing the writ petition has specifically observed that the petitioner-company was negligent in pursuing the case and on account of their negligence, no ground to review the order was made out, and reference was made to the judgment rendered by 5 Judges Bench of Hon'ble the Supreme Court in '**T.C. Basappa Vs. T. Nagappa and another**' AIR 1954 Supreme Court 440, on the proposition that judicial review of an order passed by a Tribunal can only be made where a subordinate Tribunal has wholly, without

jurisdiction or in access of it, or in violation of principles of natural justice, or refused to exercise of jurisdiction vested in them. There has to be an error apparent on the face of the record or an omission/error or access, that has resulted in manifest injustice.

The workman before the Labour Court had taken a specific stand that he had the onus to lead the evidence that he had worked for 240 days in a calendar year w.e.f. 01.06.2010 to 10.11.2014. Even, at the stage of filing CWP-22292-2020, no evidence was placed on record in the form of Annexure to show that the workman had not completed 240 days in a calendar year from 01.06.2010 till his termination in November, 2014.

Keeping in view the above facts and circumstances, the instant appeal stands dismissed.

In view of the dismissal of the main appeal, pending application also stands disposed of.

**(RITU BAHRI)**  
**JUDGE**

**(ARCHANA PURI)**  
**JUDGE**

**04.03.2021**  
*himanshu*

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No