

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-834-2022 (O&M)
Date of Decision : 06.12.2022

Jai Singh

..... Appellant

Versus

Bansal Iron Foundry and another

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present : Mr. Sanjiv Sharma, Advocate, Legal Aid Counsel
for the appellant.

VIKRAM AGGARWAL, J

CRM-1987-LPA-2022

This is an application for condonation of delay of 89 days in filing the present appeal. The application is supported by an affidavit of applicant-appellant.

Heard. For the reasons, mentioned in the application which is duly supported by an affidavit of applicant-appellant, the same is allowed and the delay of 89 days in filing the appeal is condoned.

LPA-834-2022

This Letters Patent Appeal assails the judgment dated 31.03.2022, passed by the learned Single Bench vide which the writ petition filed by respondent No.1 seeking quashing of award dated 25.07.2014 (Annexure P-8 with the writ petition) (reference to annexures hereinafter shall indicate reference to annexures with the writ petition) was allowed.

The facts, as emanating from the record, are that appellant was helper with respondent No.1-firm at a salary of Rs.4250/- per month. As per the appellant, he had been appointed by respondent No.1 on 31.03.2010 and worked continuously till 29.08.2011 when his services were illegally terminated. He issued a demand notice dated 31.10.2011 (Annexure P-2) stating that his services were terminated in controvention of the provisions of Section 25-F of the Industrial Disputes Act (hereinreferred to as 'the Act'). The said demand notice was contested by respondent No.1. The matter was referred to respondent No.2 wherein also both sides contested. Vide award dated 25.07.2014 (Annexure P-8), the reference was answered in favour of appellant and it was held that the services of the appellant had been terminated illegally. He was ordered to be reinstated with continuity of service and full back wages and 9% interest in case of delay in payment. This award was challenged in the writ petition.

The writ petition, filed by respondent No.1, having been allowed, the appellant preferred the present appeal.

Learned counsel for the appellant has contended that the learned Single Bench erred in allowing the writ petition. Learned counsel has referred to various documents on record and has contended that respondent No.2 had rightly passed the award 25.07.2014 (Annexure P-8) and no interference was required in the same.

After hearing learned counsel for the appellant, we find no reason to interfere in the decision of the learned Single Bench. Learned Single Bench rightly observed that as per the birth certificate of the appellant, he had attained the age of 58 years on 31.03.2010 and, therefore, the version of respondent No.1 that the appellant had himself left the

services was more believable and credible. The appellant had also withdrawn his provident fund which is also a pointer to the fact that the appellant had left the job on his own. There was no oral or documentary evidence on the file to even prima facie show that the appellant had worked with respondent No.1 beyond 31.03.2010. No person or a co-worker was examined before the Labour Court to prove this fact. In the absence of documentary evidence regarding engagement of the appellant by respondent No.1 beyond 31.03.2010, no oral evidence to the contrary could even otherwise be taken into consideration. Infact, the Labour Court erred in placing the onus upon respondent No.1 by holding that respondent No.1 had not produced the muster rolls and, therefore, the appellant could be said to have been working of its rolls. Since the appellant had left the services of respondent No.1 on his own, it cannot be said that he was retrenched by respondent No.1 nor is there any proof to show that he had worked for 240 days. Once it was not a case of retrenchment, no other procedure was required to be followed. The learned Single Bench, therefore, rightly set aside the award passed by the Labour Court. We find absolutely no reason to interfere in the impugned judgment passed by the learned Single Bench.

In view of the aforementioned facts and circumstances, we do not find any merit in the present appeal and the same is hereby dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

06.12.2022
mamta

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No