

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

211

**CM-16417-CWP-2015 in/and
CWP No.26296 of 2015
DATE OF DECISION : 8th July, 2022**

Shamsher

.... Petitioner

Versus

**The Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak & another**

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Sandeep Singal, Advocate for the petitioner.

Mr. Kulvir Narwal, Advocate for respondent No.2.

* * * *

RAJBIR SEHRAWAT, J. (Oral)

The petitioner has filed this petition under Articles 226 & 227 of the Constitution of India, praying for issuance of a writ in the nature of certiorari for quashing the award dated 18.12.2014 (Annexure P-6) whereby the reference has been decided against the petitioner-workman; along with certain other prayers.

The brief facts, as involved in the case, are that the petitioner-workman asserted that he was working with the respondent-management as Munshi (Clerk) since 01.01.1991. He continued to work with the respondent, however, his service was terminated w.e.f. 26.06.2010. While terminating the service of the petitioner neither any notice was given nor was any retrenchment compensation paid to the petitioner. The petitioner raised industrial dispute. The reference was made to the Labour Court. The same has been answered against the petitioner. Hence the present petition.

It is submitted by the counsel for the petitioner that respondent itself has admitted that the petitioner has worked with respondent up to 30.09.2008. The respondent-employer has also asserted that all the dues were paid to the petitioner. Hence it is obvious that the petitioner was working with respondent-employer. Therefore, the Labour Court has gone wrong in law in recording that the petitioner has not completed 240 days of service with the respondent.

On the other hand, the counsel for the respondent-employer has submitted that it is not in dispute that the petitioner was working with another firm named M/s. Jindal Bricks and Tiles Company, under the sole proprietorship of one Devinder. However, the said firm was closed on 30.09.2008 and the petitioner was paid up his dues. M/s. Jindal Mechno Bricks (P) Ltd. (wrongly typed as “M/s. Jindal Manko Bricks” in memo of parties) was independently incorporated on 01.08.1997. The company, namely, M/s. Jindal Mechno Bricks (P) Ltd. is registered company having separate entity. Therefore, merely because the above said Devinder happened to have joined as one of the Directors of the company M/s. Jindal Mechno Bricks (P) Ltd., would not relate the earlier employment of the petitioner to the present respondent-company. The fact remains that the petitioner never remained in service of respondent-company. Before the Labour Court the petitioner has not produced any record to show that he ever worked with the respondent-employer. By way of additional evidence the petitioner has placed on record certain vouchers showing some payment having been made by the respondent-company to the petitioner, however, the said vouchers/receipts are totally forged. The ISO certification, mentioned in these vouchers, was not even in existence on the date on which these receipts are shown to have been issued. Accordingly, it is submitted that the award passed by the Labour

Court is perfectly justified and legal. The petition deserves to be dismissed.

Having heard the counsel for the parties this court finds substance in the arguments of counsel for the respondent. A perusal of the record shows that it is not even in dispute that the petitioner had worked with M/s. Jindal Bricks and Tiles Company upto October 2008. However, that entity happened to be only the proprietary firm of one Devinder. Respondent, namely, M/s. Jindal Mechno Bricks (P) Ltd. is a company registered under Companies Act, 1956 and is having a separate statutory status. The petitioner has not led any evidence on record before the Labour Court to show that he had ever worked with the respondent-company, namely, M/s. Jindal Mechno Bricks (P) Ltd. The only fact that the earlier employer of the petitioner, namely, M/s. Jindal Bricks and Tiles Company, was owned by Devinder and subsequently he happened to be one of the Directors in the respondent-company, namely, M/s. Jindal Mechno Bricks (P) Ltd., would not make the continuation of the employment of the petitioner under the respondent-company. Therefore, this court finds that the Labour Court has committed no illegality or perversity in recording a finding that the petitioner has not worked with the respondent-management for 240 days in 12 calendar months immediately preceding the date of his alleged termination of service.

In view of the above, finding no merit in the present petition, the same is dismissed.

All the pending applications, if any, stand disposed of accordingly.

8th JULY, 2022
'raj'

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:

Yes

No

Whether Reportable:

Yes

No