

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-2724 of 1993(O&M)
Date of decision: 16.03.2023

Hakam Singh

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abhiraj Singh Baweja, Advocate, for
Mr. Harpal Singh Sirohi, Advocate
for the petitioner.

Mr. Navdeep Chhabra, Sr.DAG, Punjab.

ANIL KSHETARPAL, J(Oral)

1. The petitioner prays for the issuance of a writ in the nature of certiorari to quash the order dated 15.03.1992 (Annexure P-4), whereby his services have been dispensed with in accordance with Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the 1947 Act').
2. This writ petition has come up for the final hearing after a period of 3 decades.
3. The learned counsel representing the petitioner contends that the petitioner was appointed as an Assistant Blacksmith on a regular basis on 15.10.1979 and his services were wrongly dispensed with in the year 1985. The petitioner then went to the Labour Court and his reinstatement was ordered vide award dated 03.09.1990 with continuity of service and 50% back wages. The writ petition filed by the State was dismissed and the petitioner was reinstated in service by the said award. He submits that while reinstating the petitioner, he was treated as a daily wager, though, he was

regularly appointed in the year 1985.

4. The petitioner in order to prove that he was regularly appointed relies upon the office order issued on 24.04.1980, to contend that the petitioner was paid salary in the pay scale of Rs.400-600.

5. On a court question, the learned counsel representing the petitioner admits that the petitioner has not placed on record any order of his appointment on regular basis. On a careful perusal of the office order dated 24.04.1980 (Annexure P-8), it is evident that the expression used in the order is “purely temporary basis”. Hence, the office order does not prove that the petitioner was appointed in the year 1979 on the regular basis.

6. In the written statement, the respondents have specifically stated that the petitioner was appointed on a daily wage basis for a period of 25 days from 15.10.1979 to 08.11.1979.

7. In these circumstances, this court expresses its inability to hold that the petitioner was appointed on a regular basis against the vacant post.

8. The next grievance of the petitioner is that his juniors have been retained while his services were once again dispensed with in the year 1993 by the concerned authority.

9. While explaining the aforesaid assertions, the respondents have disclosed that two juniors alleged to have been retained in service were appointed against the sanctioned posts, whereas the petitioner was not appointed against the sanctioned post as he was not appointed on the regular basis.

10. At the most, the petitioner alleges violation of Section 25-G of the 1947 Act. The remedy against such an infringement lies before the

Labour Court.

11. Hence, the writ petition is disposed of while relegating the petitioner to the alternative remedy.

12. All the pending miscellaneous applications, if any, are also disposed of.

March 16, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No