

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.17692 of 2021

Date of Decision: January 24, 2023

Joginder Singh

...Petitioner

Versus

Presiding Officer Industrial Tribunal-cum-Labour Court, Ambala & another

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Pawan Attri, Advocate,
for the petitioner.

MANOJ BAJAJ, J.

Petitioner-workman has filed this writ petition under Article 226 Constitution of India seeking a writ in the nature of certiorari for setting-aside the award dated 28.12.2017 (Annexure P-5), passed by the Labour Court, Ambala, whereby the industrial dispute raised by him has been answered against him.

The facts, in brief, as per claim statement (Annexure P-3) are that the petitioner joined as a labourer on 28.03.1994 on daily wage basis in Sayoncer Forest Beat in Pehowa Range for the work of preparing nurseries, making ridges for plantation of plant etc., who worked in different spells upto October, 2016 and the details are contained in Para 3, and as his work was satisfactory to the satisfaction of his seniors, he was allowed to work continuously till 08.10.2016 without any break. The respondent-department with malafide intention committed mischievous act by changing either the name of the petitioner or his father in their record, i.e., muster-rolls, wages

bill etc. to defeat the right of the petitioner for regularization and ultimately terminated his services on 08.10.2016 without any cogent reason, whereas his juniors were allowed to carry their work. On these broad averments, the petitioner raised industrial dispute, whereupon the reference was sent to the Labour Court, Ambala and through the impugned decision dated 28.12.2017, it has been dismissed.

Learned counsel has argued that the management has failed to produce any record relating to employment of the petitioner-workman on the ground that the old records have been weeded out by them prior to the raising of the demand notice and further the management by taking undue advantage of the illiteracy of the petitioner forged official record in order to deprive him of his valuable right for regularization of services. He has further argued that the petitioner continuously worked from 28.03.1994 till 08.10.2016, i.e., more than 240 days, but his services were illegally terminated without following the mandatory provisions of the Industrial Disputes Act, 1947. According to him, not only fresh persons were employed in place of the petitioner, but even juniors to the petitioner were retained and subsequently their services were regularized also. He contends that the respondent-management has committed unfair labour practice by showing the workman under some fictitious contractor, therefore, the finding returned by the Labour Court that the petitioner worked under MGNREGA Scheme through Panchayat is not correct. He prays for setting-aside the award dated 28.12.2017 and for issuing a writ of mandamus directing the respondents to reinstate him with full back wages etc.

After hearing the learned counsel and considering his submissions as well as the material on record, it transpires that the claim of

the petitioner was declined by the Labour Court with the observation that his services were engaged under a Scheme, namely, MGNREGA sponsored by Government of India and since the said Scheme ended in the year 2010, his claim was held to be not maintainable in view of the bar contained in Section 30 Mahatma Gandhi National Rural Employment Guarantee Act, 2005. The observations made by the Labour Court are based upon correct appreciation of the facts and material on record, therefore, this court has no hesitation in holding that the impugned award does not warrant any interference, particularly when it suffers from delay and laches as the writ petition has been filed after a long gap of four years.

Resultantly, no ground is made out for exercise of extraordinary writ jurisdiction.

Dismissed.

January 24, 2023
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No