

2023:PHHC:123871

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10518-2023
DECIDED ON: 20.09.2023

DIVISIONAL FOREST OFFICER TERRITORIAL
.....PETITIONER

VERSUS

AZAD AND ANOTHER
.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Safia Gupta, AAG Haryana
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court has been invoked under Article 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned award dated 28.07.2022 (Annexure P-1) vide which the workman-respondent No.1 was ordered to be reinstated in service with immediate effect alongwith all other consequential benefits, but without back wages.

Ms. Safia Gupta, AAG Haryana appearing for the petitioner contends that since the respondent No.1-workman was working on a seasonal assignment with the petitioner department and had not worked for 240 days in a calendar year preceding to the date of termination, thus, the award passed by the Labour Court is bad and not sustainable in the eyes of law.

Having heard.

On perusal of the record, this Court culminates the background of the instant writ petition to the effect that the respondent No.1 was engaged as Beldar-cum-Chowkidar in the year 1988 by the petitioner-management in the office of the Range Officer, Loharu and on account of his termination from the services w.e.f.

01.09.1999, a demand notice was raised and reference was answered in favour of the workman-respondent No.1 by the Labour Court vide award dated 30.01.2012, which was challenged by the petitioner vide CWP No.23794-2012 before this Court. Vide order dated 17.01.2020, the award dated 30.01.2012 was set aside and the case was remanded to the Tribunal below for providing the petitioner-Management at least two to four opportunities to complete the entire evidence regarding muster roll and service record of the workman-respondent No.1, since 1988 till the alleged date of termination i.e., August 1999.

It is, thereafter, the matter was decided afresh by the Tribunal below and on perusal of the same, it is evident that there is no iota even a whisper, to say that the workman-respondent No.1 was working only as a seasonal employee for a particular period in a calendar year, but to counter the same, it is workman-respondent No.1, who summoned the muster rolls, attendance register, payment vouchers of Loharu block for the period 01.01.1996 to 31.08.1999 of all the schemes of Social Forestry Project, cashbook, bill vouchers vide which he was paid for the said period. On the other hand, Sh. Om Parkash, Range Forest Officer was summoned in the witness box as MW2 on behalf of petitioner-Management, but he failed to produce the complete requisite record summoned by the workman-respondent No.1 relating to his service tenure. Though, WW2-Chander Bhan, Forester has produced the record of Chet Ram s/o Sh. Surja Ram, who was appointed in June, 1997 stating that no record could be produced on that day and the same cannot be produced in future also. On the other hand, the management's own witness during his cross-examination admitted that the period of working of the respondent No.1, as referred by the respondent No.1-workman in Ex.W-1 i.e., even beyond the period as shown in Ex.M1 i.e., working detail placed on record by the petitioner-management. Even the payment in lieu of said work has been made to the workman through muster rolls and sometimes through bill and, therefore, an

adverse inference was drawn against the petitioner-management on account of lack of evidence and record produced by the petitioner-Management. In fact, WW3, Sh. Chander Singh s/o of Sh. Bhagwana has corroborated the version of the workman-respondent No.1 admitting that he was appointed in the year 1978 and was posted in Kaluwala Beat and thereafter in Loharu Range, where he remained upto 2014 subsequent thereto, the services of the workman-respondent No.1 was regularized under the policy of 2003 and transferred to Faridabad in the year 2016 from where he finally retired on attaining the age of superannuation on 31.03.2018. He categorically admits the working period of respondent-workman for the period from 1988 to 01.09.1999 at Loharu Range having been worked as Peon and sometimes he was sent to fields.

In the light of above, this Court is of the opinion that the findings recorded by the Industrial Tribunal-cum-Labour Court, Hisar is absolutely perfect and does not find any infirmity and perversity. The relief granted by the Tribunal below in favour of the workman-respondent with regard to his reinstatement in service alongwith continuity on the previous post alongwith other consequential benefits is just and legal and very rightly and cautiously has not allowed the back wages to be adopted for the intervening period on account of no work no pay, therefore, causing no technical loss to the petitioner-Management and having no merits, the instant writ petition stands dismissed.

(SANDEEP MOUDGIL)
JUDGE

20.09.2023

Meenu

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