

CWP-11608-2012 (O&M)

. 2023:PHHC:118448

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201

CWP-11608-2012 (O&M)
Date of Decision :-11.09.2023

Ram Pal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashwani Gaur, Advocate for the petitioner.

Mr. Sourabh Mohunta, DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

Present petition has been filed challenging an award dated 13.05.2011 (Annexure P/4) passed by the Industrial Tribunal-cum-Labour Court, Panipat (hereinafter referred as 'tribunal') by which, claim of the petitioner for setting aside the order of termination of his services being violative of Section 25-F of the Industrial Disputes Act, 1947 has been declined.

As per the averments made in the present petition, the petitioner was continuously working with the respondents as part-time Kahar (Waterman) since 19.07.1993 after his name was sponsored by Employment Exchange, Sonapat and he continued working with the respondents till 31.07.2004 when his services were terminated by the respondents, which

action of the respondents was challenged by the petitioner before the tribunal by raising demand notice. Learned counsel for the petitioner submits that during the pendency of the claim of the petitioner before the Industrial Tribunal enough evidence was produced that the petitioner had worked for 240 days in preceding three years before his services were terminated but still claim of the petitioner was declined by the tribunal while passing impugned award dated 13.05.2011 by recording the incorrect facts in paragraph 11 of the award.

Learned counsel for the petitioner argues that in para-11 of the impugned award it has been recorded that the petitioner had not worked for 240 days in 03 years prior to the termination of his services hence, there cannot be any violation of Section 25-F of the Industrial Disputes Act, 1947 so as to grant relief to the workman-petitioner, which finding of the tribunal is incorrect keeping in view the statement of the WW-3 Sahdev Singh, who was working as Assistant in the office of Block Education Officer.

Learned counsel for the petitioner further argues that as per the statement of the said witness, copy of which has been appended as Annexure P/5 with the present petition, it is clear that petitioner had worked continuously from 23.07.1993 to 28.02.2003 except on Government holidays hence, it cannot be said that the petitioner never worked for 240 days in 03 years prior to termination of his services so as to deny him the benefit under Section 25-F of the Industrial Dispute Act, 1947.

Learned counsel for the respondents submits that entire evidence which had come on record has been taken into account by the tribunal and the findings which have been recorded by the tribunal needs no interference by this Court and the present petition is liable to be dismissed.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Once, as per the statement of the witness namely, Sahdev Singh, who brought the record on behalf of the respondent-department stated that the petitioner had worked starting from 1993 onwards till 2003 continuously except on Government holidays, no further evidence was required to be called for to record a finding qua the factum that whether the petitioner had worked for 240 days or not. The said evidence has not at all been considered by the tribunal in a correct perspective while recording the findings rather the same has been misinterpreted.

Once, it is a conceded position that petitioner had worked from 1993 till 2003 except Government holidays, award dated 13.05.2011 (Annexure P4) passed by the tribunal is contrary to the evidence on record hence, the said award cannot be upheld.

Keeping in view the above, award dated 13.05.2011 (Annexure P4) passed by the tribunal is set aside and the case is remanded back to the tribunal to pass a fresh order on the basis of the evidence which had already come on record so as to record a finding whether the petitioner is entitled for any relief in the facts and circumstances of the present case or not.

It may be noticed that this Court is not opining anything upon merit of the case but has only passed the present order qua the fact that tribunal has not considered the entire evidence which had brought before the tribunal while passing the impugned award in question.

As the present petition relates to year 2012, tribunal is requested to pass a fresh order within a period of three months from the date of receipt of copy of this Court.

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Civil miscellaneous application pending if any, is also disposed
of.

September 11, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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