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

CWP-10961-2016 (O&M)

Date of Decision: 24.03.2023

Atam Valves Pvt. Ltd.

.. Petitioner

Vs.

Presiding Officer, Industrial Tribunal, Jalandhar and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Varun Dhawan, Advocate for
Mr. K.R. Dhawan, Advocate for the petitioner.
Mr. Arvind Kashyap, Advocate
for respondent No.2.

...

Manoj Bajaj, J. (Oral)

This writ petition has been filed under Article 226 Constitution of India for issuance of a writ in the nature of Certiorari for quashing the award dated 03.09.2015 (Annexure P-3) passed by Ld. Industrial Tribunal Jalandhar, whereby respondent No.2-workman has been ordered to be reinstated in service with 25% back wages.

Learned counsel for the petitioner has argued that though the workman raised the industrial dispute claiming his length of service w.e.f. 1989 to 2006, but he failed to prove it and as per the findings returned by the Labour Court, Jalandhar, the workman had worked as Fitter w.e.f. 2004 to 2006. Learned counsel has further argued that in the written statement, the petitioner-management had offered the workman to join the duties, in case, he gives up back wages, but he failed to accept that offer. He submits that the petitioner-management had taken a candid stand that the services of the workman were never terminated as alleged and he had himself stopped coming to the factory to do the job w.e.f. 10.06.2006. According to the learned counsel, the labour Court has not carefully examined the pleadings

and evidence on record while accepting the claim of respondent No.2. He submits that the impugned order warrants interference by this Court in exercise of jurisdiction under Article 226 Constitution of India.

On the other hand, learned counsel for workman has argued that the Labour Court, Jalandhar has examined dispute between the parties carefully while ordering his reinstatement and it has also struck a balance by curtailing the back wages to 25%. Learned counsel has further submitted that though the impugned award dated 03.09.2015 was not stayed as far as the reinstatement of workman is concerned, but despite that he did not join the service, therefore, the workman confines his relief only to the extent of back wages granted by the labour Court. He prays that the writ petition be dismissed.

After hearing the learned counsel for the parties and considering the background of this case, it comes out that as per the findings of the labour Court, the workman worked with the petitioner-management for a period of two years and this Court vide order dated 27.07.2016 had only stayed the back wages, but the workman did not press his claim for reinstatement.

During the course of hearing, it is not disputed by learned counsel that the workman attained the superannuation age of 58 years in 2018. Above all, the workman has failed to rebut the stand of the management that even during the proceedings before the Labour Court, he was offered to resume his job, but no reasons were given by him for not availing the said opportunity. This conduct of the workman gives strength to the stand of the management that the workman voluntarily left his job. Besides, a perusal of the cross-examination of workman shows that he was

residing in Himachal Pradesh and had been working there as labour on daily wages. Once the workman has chosen not to press his claim for reinstatement in service, even pursuant to the impugned award, the claim only for back wages alone would not survive.

In view of above discussion, this Court finds it to be a fit case for exercise of writ jurisdiction under Article 226 Constitution of India, as the impugned award is not sustainable.

Resultantly, the writ petition is allowed and the impugned award dated 03.09.2015 (Annexure P-3) passed by Ld. Industrial Tribunal Jalandhar in favour of the workman is dismissed.

24.03.2023
Jasmine Kaur

Whether speaking/reasoned

Whether reportable

Yes

Yes

No

No

(MANOJ BAJAJ)
JUDGE