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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24658-2015 (O&M)
Date of Decision: 13.01.2023

NOORNISHA

.. Petitioner

Vs.

THE PRESIDING OFFICER & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Nasir Jamal, Advocate for
Mr. Mohd. Arshad, Advocate for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

...

Manoj Bajaj, J. (Oral)

Petitioner-Noornisha has filed this writ petition under Article 226 Constitution of India seeking a writ of certiorari for quashing of order dated 15.03.2011 (Annexure P-1), whereby reference raising industrial dispute was dismissed by Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon.

Briefly, the facts of the case are that the petitioner had allegedly worked as gardner 'Mali' with the Chief Conservator of Forest, Panchkula w.e.f. 06.08.2003 to 06.08.2007 @ monthly salary of Rs.2700/- p.m.. Her services were terminated illegally by the respondent without following the provisions of Sections 25-F, 25-G and 25-H Industrial Disputes Act, 1947, and neither any notice was given to the worklady while retrenching her services nor any wages or compensation was paid to her. Even the principle of 'Last Come First Go' was not followed, as junior were retained in service.

After termination, she visited the office of respondent with a request for

reinstatement, but it proved to be futile, as nothing was done and thereafter, she raised a demand notice dated 17.07.2008, whereupon the reference was sent to the Labour Court.

The said reference was dismissed vide impugned order dated 15.03.2011 and it reads as under:

“None has come present for the Workman. Case called several times since morning. It shows that the workman is not interested in pursuing the case file. So, the reference made for the workman is hereby ordered to be answered as NO AWARD File be consigned.”

Though the above order was passed in March, 2011, but the present writ petition was filed after approximately four years and eight months in November, 2015, wherein the notice of motion was issued on 10.05.2016. Thereafter, the writ petition had been adjourned repeatedly and on numerous occasions, no one appeared on behalf of the petitioner.

A perusal of the reply filed by the Divisional Forest Officer, Nuh on behalf of respondents No.1 to 3 before the Industrial Tribunal-cum-Labour Court-I, Gurgaon shows that the alleged engagement of petitioner as gardner 'Mali' has been specifically denied, as according to them, she never worked with the department, therefore, her services were never terminated. Further, it is highlighted that there is no relationship of employee and the employer between the parties and while denying the other averments in the claim statement, it was prayed that the claim petition be dismissed. Further, a rejoinder to the written statement was filed, denying the stand of the Divisional Forest Officer, Nuh and the prayer seeking reinstatement with full back wages and continuity of service was prayed for.

However, the reference was dismissed by the Industrial Tribunal-cum-Labour Court-I, Gurgaon by passing the above order. Hence,

this writ petition.

Upon perusing the contents of the writ petition as well as material on record, this Court has no hesitation in holding that the petitioner has not shown any interest to pursue the claim, thereby compelling the Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Gurgaon to dismiss the claim for lack of interest. Even after dismissal of this reference, neither any application was filed before the Industrial Tribunal-cum-Labour Court, Gurgaon nor the writ petition was filed promptly, as it has been filed after a period of four years and eight months. Strangely, the petitioner has relied upon the affidavit dated 15.11.2011 (Annexure P-5) allegedly tendered by her in evidence before the Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Gurgaon, but her reference stood dismissed in March, 2011 much before the said affidavit was sworn. Thus, the petitioner has failed to rely upon any convincing material to establish her relationship of employee and employer with the respondents.

Resultantly, considering the above background as well as the conduct of the petitioner, this Court is not inclined to exercise the extra ordinary writ jurisdiction under Article 226 Constitution of India.

Dismissed.

13.01.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No