

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

CWP-5351-2016

Date of decision :28.04.2023

Sidharth

...Petitioner

Vs.

**Presiding Officer, Industrial Tribunal-
Cum-Labour Court & another**

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Lajpat Sharma, Advocate
for the petitioner.

Mr. Zorawar Singh Chauhan, DAG, Haryana
for respondent No.2.

MANOJ BAJAJ, J.

Petitioner-Sidharth has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of certiorari for setting aside the award dated 30.12.2013 (Annexure P-4) passed by Industrial Tribunal-cum-Labour Court, Hisar, whereby the reference raising industrial dispute against termination of his service by respondent No.2 was answered against him.

Learned counsel for the petitioner has argued that the petitioner joined on the post of Chowkidar with respondent No.2-Management on 23.07.2010 and continued to perform his duties sincerely, but his services were terminated illegally w.e.f. 01.04.2013 in violation of the provisions of Sections 25-F, 25-G and 25-H Industrial Disputes Act, 1947. Learned counsel has pointed out that the employees junior to the petitioner were retained in service and being aggrieved against the illegal action of the respondent No.2, the

petitioner raised industrial dispute which reached before the Labour Court, Hisar and the same has been answered against him through the impugned award dated 30.12.2013 (Annexure P-4). He submits that the Labour Court has erroneously accepted the stand of the management that the petitioner was not under direct employment of respondent No.2 as his services were provided by the contractor, therefore, the impugned award warrants interference by this Court.

While opposing the prayer, learned counsel for respondent No.2 has argued that the respondent No.2-Management had engaged services of few employees for work in dispensary for 89 days and petitioner was employed as Chowkidar in ESI Dispensary, Sector 21, Bhiwani on 23.07.2010. He submits that the employment was based on urgency of work and subsequently, the petitioner was relieved from service on 31.08.2010, because tender for manpower supply was issued by the Hospital Management Committee. Learned counsel has argued that on the basis of the same, the contract of supply of manpower was given to the M/s New Hindustan Security Service and Placement Bureau, Sampla for the period from 01.09.2010 to 31.03.2011, which was extended from time to time and the employees provided by the contractor received their remuneration from the contractor. He submits that the documentary evidence with regard to the nature of engagement of the petitioner was produced before the Labour Court and considering the evidence on record, the Labour Court has rightly passed the award against the workman-petitioner. Learned counsel prays for dismissal of the writ petition.

Learned counsel for the parties have been heard and with their assistance case file has been perused.

According to petitioner-workman, he was employed as Chowkidar by the respondent-Management w.e.f. 23.07.2010 and in this regard, he adduced his appointment letter Ex.W1/A in evidence. However, his claim that he worked continuously under direct employment of management upto 31.08.2010 is not proved. The documentary evidence adduced by both the parties before the Labour Court shows that indeed initially the petitioner was employed as Chowkidar, but his appointment was on temporary basis and he stood relieved from service on 31.08.2010.

Later, the respondent No.2 constituted Hospital Development Committee and the manpower required for work and maintenance of the dispensary were outsourced and vide letter dated 27.08.2010 (Ex. M-18) M/s New Hindustan Security Service and Placement Bureau, Sampla was allotted tender. Through this contractor, 19 persons were engaged including the petitioner for work with respondent No.2-Management and subsequently, in the similar manner, twice the contract was given to M/s Jagdamba Building Contractor, New Delhi. Thus, documentary evidence on record Ex.M-27 to M-32 shows that the petitioner worked under the instructions of the contractor till 31.03.2013. Apart from it, the cross-examination of the workman also shows that he feigned ignorance about his employment through a contractor or directly under the management and only mentioned about his period of work w.e.f. 23.07.2010 to 31.03.2013. As a result, the evidence on record makes it absolutely clear that workman remained under direct employment of respondent- management for a short period of 40 days and finding in this regard recorded by the Labour Court is based upon the proper appreciation of the documentary evidence.

Resultantly, finding no merit in this writ petition, the same is dismissed.

28.04.2023
neeraj

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes
Yes

No
No

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I attest to the accuracy and
integrity of this document