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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-516-2017 (O&M)
Date of Decision: 10.01.2023

TARSEM LAL

.. Petitioner

Vs.

CHIEF GENERAL MANAGER NTC BSNL AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Parminder Singh-I, Advocate for the petitioner.

Mr. D. R. Sharma, Advocate
for respondents No.1 to 3.

...

Manoj Bajaj, J. (Oral)

Petitioner-workman has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of certiorari to challenge the award dated 17.11.2015 (Annexure P-3) passed by respondent No.4-Industrial Tribunal-cum-Labour Court-II, Chandigarh, whereby his claim for reinstatement with back wages was dismissed.

The facts in brief leading to the writ petition are that the petitioner raised the industrial dispute against the Management of Telecommunication-Bharat Sanchar Nigam Limited, Jalandhar to challenge his termination w.e.f. 01.04.1988 as casual labourer, on the alleged ground of violation of the provisions of Industrial Disputes Act, 1947.

The claim was contested by the Management and the same was answered against him vide impugned award dated 17.11.2015.

Learned counsel for the petitioner has argued that the petitioner had joined the service with the management as casual labourer w.e.f.

04.07.1986 and was on muster roll, but his services were terminated on 01.04.1988, and while doing so, no retrenchment compensation was paid to him and the juniors were retained in service. He submits that since the petitioner had completed more than 240 days prior to termination of his service, therefore, the action of the respondents is bad in law, which is violative of Sections 25-F and 25-G of the Industrial Disputes Act, 1947. He prays that the impugned award be set aside and the management be directed to take back him in service with all consequential benefits.

During the course of hearing, it is not disputed by learned counsel that the petitioner last worked with the management till 31.03.1988, but the industrial dispute was raised by the workman by filing a claim statement on 18.09.2005 (Anneuxre P-1).

When confronted with a long delay in raising the industrial dispute, learned counsel submits that previously the petitioner had approached this Court by way of CWP-18658-2001 to challenge the action of the management terminating his services, however, the said writ was disposed of on 10.11.2003 with a direction to the respondent-management to decide his representation by passing a speaking order within a period of six months, whereupon decision dated 01.03.2004 was passed. He further submits that again the workman preferred CWP-11943-2004, however, the same was also withdrawn by him on 10.08.2004 in order to avail the remedy under the Industrial Disputes Act, 1947.

After hearing the learned counsel and considering his submissions, this Court does not find any merit in this writ petition, as firstly, the workman had relied upon a scheme of the year 1989 while challenging his termination before this Court and the said claim was

rejected by the Deputy General Manager, Satellite Project, New Delhi on 01.03.2004 with the observation that the said scheme was one time measure and not an ongoing scheme, while relying upon the decision of Hon'ble the Supreme Court in “Union of India Vs. Mohan Pal & Ors. AIR 2002 Supreme Court 2001”. Though the said decision was again challenged by the workman in CWP-11943-2004, but the said ground was not pressed and he sought liberty to raise the industrial dispute.

For all these years, the workman remained out of service and during proceedings before the Labour Court-cum-Industrial Tribunal-II, Chandigarh, he failed to adduce any evidence regarding his work period of 600 days with the department and failed to prove even payment of wages. The Industrial Tribunal-cum-Labour Court-II, Chandigarh recorded a categorical finding that the workman has neither produced any evidence nor submitted any record from the management and same are based upon proper appreciation of material on record and do not call for any interference, much less by invoking extraordinary power of writ jurisdiction under Article 226 Constitution of India.

Dismissed.

10.01.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No