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

CWP-9742-2014 (O&M)

Date of Decision: 17.04.2023

Shani

.. Petitioner

Vs.

Industrial Tribunal, Patiala and others

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: None for the petitioner.
Mr. Sanjeev Soni, Advocate
for respondents No.2 and 3.

...

Manoj Bajaj, J.

By means of this writ petition under Article 226 Constitution of India, petitioner has prayed for issuance of a writ of certiorari for quashing the award dated 26.11.2013 (Annexure P-4) passed by respondent No.1, whereby his claim for reinstatement with all consequential benefits has been declined and compensation of Rs.10,000/- has been granted.

As per the averments contained in the writ petition, the petitioner had worked with respondent-Municipal Corporation, Patiala as Sewerman w.e.f. 01.10.1990 to 30.09.1994 and his services were illegally terminated without any notice, charge-sheet or enquiry and at the time of his termination, he was drawing wages @ Rs.1124/- p.m. Against this illegal termination, he raised the industrial dispute and the same has been partly accepted, whereby the labour Court while denying reinstatement to the workman awarded a sum of Rs.10,000/- as compensation. The petitioner has challenged the said award primarily on the ground that once the termination of the petitioner was found to be illegal and violative of Section 25-F Industrial Disputes Act, 1947, therefore, the labour Court ought to

have ordered his reinstatement with consequential benefits. The writ

petitioner has prayed that the impugned award dated 26.11.2013 be set aside and his reinstatement in service with all consequential benefits be ordered.

The prayer is opposed by respondents No.2 and 3 by filing a written statement, wherein it is pleaded that the workman was never appointed as Sewerman and he only worked on daily wage basis for a total period of 185 days with breaks in the months of December, 1993, January, April to August, 1994. It is specifically mentioned that the workman never worked for more than 240 days, therefore, the reference before the labour Court could not have been maintained. Lastly, it is prayed that the writ petition be dismissed.

Today, no one has appeared on behalf of the petitioner and previously on many occasions, no one appeared to represent the petitioner, therefore, considering the pendency of this writ petition for a long time and nature of relief claimed, this Court is not inclined to keep this case pending.

Learned counsel for the respondents has submitted that pursuant to the order dated 09.08.2017, details of the petitioner work period w.e.f. 01.10.1992 to December, 1993 has been placed on the record by way of affidavit of Anuprita Johal, Joint Commissioner, Municipal Corporation, Patiala, wherein his total number of working days are mentioned. He submits that the record of the muster roll would show that the petitioner never worked for more than 240 days in a calendar year and the stand of the petitioner that he deserves to be reinstated is without any merit. He has pointed out that though the labour Court proceeded to hold that the termination of the workman is illegal, but there is no finding that he had worked for more than 240 days in a calendar year. According to the learned counsel, the impugned award does not call for any interference and the writ

petition be dismissed.

After analyzing the pleadings of the parties as well as the submission of the learned counsel for the respondent Nos.2 and 3, this Court finds that as per the averments contained in the writ petition itself, the petitioner worked for a short period with the respondents w.e.f. 1990 to 1994. A perusal of the impugned award shows that the labour Court noticed the fact that the petitioner-workman raised the industrial dispute after a period of 11 years, but proceeded to accept the claim of the workman partly by holding his termination as invalid. No doubt, the labour Court returned a finding that the services of the workman were terminated wrongly, but that alone would not be sufficient to order reinstatement of the workman in service as alternatively the workman can be suitably compensated by keeping in view the other attending circumstances. Having given thoughtful consideration to the facts and circumstances of this case, particularly the delay in raising the industrial dispute, this Court finds that the labour Court has delivered a reasoned award. The labour Court has analyzed the material on record carefully while refusing reinstatement of workman and has ordered payment of compensation of Rs.10,000/-. The impugned award is based upon correct appreciation of facts and does not call for any interference.

Resultantly, no ground is made out for exercise of extraordinary writ jurisdiction under Article 226 Constitution of India.

Dismissed.

17.04.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No