

104

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

CWP-1490-2020 (O&M)

Date of decision : 30.01.2023

Suresh Kumari

...Petitioner

Vs.

**Industrial Tribunal and Labour Court,
Union Territory, Chandigarh and others**

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Kanhiya Soni, Advocate for the petitioner.
Ms. Aakanksha Sawhney, Additional Standing counsel
for U.T.Chandigarh.

MANOJ BAJAJ, J.

Petitioner has filed this writ petition under Article 226 Constitution of India for issuance of a writ of Certiorari for setting aside the award dated 22.12.2016 (Annexure P-11) passed by Industrial Tribunal-cum-Labour Court, U.T.Chandigarh, whereby the industrial dispute raised by her against termination of service was dismissed.

The facts in brief leading to the writ petition are that the petitioner had joined as Helper on 05.09.2000 with Civil Dispensary, Sector-8, Chandigarh, who was also imparted training by Punjab Nurses Registration Council and the training certificate is Annexure P-3. The petitioner submitted an application to respondent No.3-Medical Officer, Civil Dispensary, Sector-8, Chandigarh and also claimed salary of helper in health department, but thereafter, she was not allowed to join her duty at Civil Dispensary, Chandigarh w.e.f. 03.06.2010. As per pleadings, the salary of petitioner w.e.f. 2005 was withheld by the management and in response to her request for

release of salary, it was intimated that the petitioner was engaged as helper @ Rs.100/-per month on her request. The petitioner moved complaint dated 17.08.2007 (Annexure P-6) to Secretary, U.T.Chandigarh and requested to allow her to join the duty, and thereafter, she submitted demand notice dated 18.01.2011 (Annexure P-8). In the reply dated 19.03.2012 (Annexure P-9), it was stated by management that the petitioner was working voluntarily on the honorarium basis and there is no post of helper (trainee) in Civil Dispensary. A rejoinder dated 11.08.2015 (Annexure P-10) was also filed by the petitioner by stating therein that she is entitled to the relief claimed as the Junior Workmen to her were still retained in service by the Management. The reference was sent to the Industrial Tribunal, Chandigarh to adjudicate the dispute and the same has been dismissed vide impugned award dated 22.12.2016 (Annexure P-11). Hence this writ petition.

Learned counsel for the petitioner has argued that the petitioner had joined as Helper on 05.09.2000 with Civil Dispensary, Sector-8, Chandigarh and she continued to work till 03.06.2010 when her services were illegally terminated. Learned counsel submits that the Industrial Tribunal has not examined the material on record carefully while dismissing the claim of the petitioner and in support of his contentions, learned counsel has drawn the attention of the Court to the communication dated 28.06.2004 to contend that as per the respondents themselves, the petitioner worked with them, therefore, the impugned award is not sustainable and warrants interference by this Court.

After hearing learned counsel and considering the material on record, it transpires that the petitioner had worked for a period of five years and no material much less convincing evidence relating to her engagement by the

Management was produced. The argument that reply dated 28.06.2004 establishes her relationship of employee with the respondents employer is without any merit as in the said communication, the claim of the petitioner for release of salary as helper was declined on the ground that she voluntarily worked with respondent No.3 on honorarium basis.

During the course of hearing, it is fairly stated by learned counsel that there is no appointment letter issued by the management appointing the petitioner as helper. Further a reading of the impugned award reveals that the Labour Court has carefully examined the oral as well as documentary evidence on record while returning a categoric finding that there is no relationship of employee and employer between the petitioner and management. The findings on material issues are based upon proper appreciation of evidence. Above all, no plausible explanation has been given by the petitioner for approaching this Court after such an inordinate long delay, as the impugned award was delivered on 22.12.2016.

Resultantly, no case is made out for exercise of extra ordinary writ jurisdiction.

Dismissed.

(MANOJ BAJAJ)
JUDGE

30.01.2023
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No