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

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CWP-12170-2000 (O&M)
Date of Decision : 09.08.2024

DALBIR SINGH

.... PETITIONER

V/S

THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, ROHTAK AND ANOTHER

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Ramesh Hooda, Advocate
for the petitioner.

Mr. Raman Sharma, Addl.A.G., Haryana.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of award dated 12.01.1999 whereby Labour Court has answered reference against him.

2. The petitioner claims that he joined respondent as Motor Mate on 01.12.1992 and was terminated on 09.06.1994. He was again appointed on 06.09.1994 as Chowkidar and terminated on 01.11.1994.



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3. The Labour Court has rejected claim of the petitioner on the ground that he was terminated on 09.06.1994 and he did not challenge the said order. He was re-appointed on a different post i.e. Chowkidar. He was again terminated from the post of Chowkidar. He had worked as Chowkidar for two months, thus, he cannot claim compensation under Section 25 F of Industrial Disputes Act (for short, 'ID Act').

4. Stand of respondent is that the petitioner was re-appointed on 06.09.1994 as Chowkidar and terminated on 01.11.1994. There was gap of three months between the date of termination and re-appointment. The post on which he was re-appointed was entirely different. He cannot claim benefit of Section 25F of ID Act because he did not work for 240 days during preceding 12 months.

5. The Labour Court has rejected claim of the petitioner on the ground that he had not completed 240 days during preceding 12 months. He has not challenged his first termination order. The 2nd appointment was a fresh appointment and he had worked for less than 240 days on the fresh post. The relevant extracts of the findings recorded by Tribunal are reproduced as below:

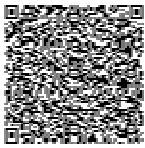
“10 In any case as per the own stand of the workman in his claim statement the management had terminated his service on 9.6.94 and on his request the management reemployed him on 6.9.94 as Chowkidar and his service was terminated on 1.11.94, meaning thereby that there was a gap of about 3 months and this much long gap of time can not be said to be nominal break. Moreover his earlier service as motor mate stood terminated and the workman has not challenged his termination of service on 9.6.94 as motor mate. Instead he has challenged his termination



dated 1.11.94 as chowkidar. So as chokidar he had only worked from 6.9.94 to 31.10.94 i.e. for less than 2 months meaning thereby that he had not worked as Chowkidar for 240 days during the year preceding the date of his termination. However, in view of the long gap of about 3 months the workman is not entitled to claim continuity of his service as motor mate ending on 6.9.94 with his termination from that post.

11. There is therefore, no merit in the plea of the learned A.R. for the workman that in the absence of contrary evidence of the management the oral testimony of the workman that he had completed 240 days of service in the year preceding 1.11.94 and neither notice for retrenchment compensation having been given to the workman his termination being in violation of mandatory provisions of Section 25-F of the Act is illegal especially because in the aforementioned circumstances of the case it is difficult to place reliance on the self serving oral testimony of the workman when he has stated that he had worked for more than 240 days during the year preceding 1.11.94.”

6. From the arguments of both sides and perusal of findings recorded by Tribunal, it is evident that the petitioner initially was appointed on a post which was entirely different from the post on which he was re-appointed. Initially, he was appointed on the post of Motor Mate whereas after termination, he was posted on the post of Chowkidar. There was a gap of three months between the date of termination and re-appointment. Protection of Section 25 F of ID Act is available if a workman has worked for 240 days during preceding 12 months. The petitioner concededly had worked for 240 days during preceding 12



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months though on different posts. For the substantial period, he had worked on the post of Motor Mate and for the small period on the post of Chowkidar. Both the posts fall within the definition of ‘workman’.

7. The termination order was passed in 1994 and impugned order was passed in 1999. This Court, at this stage, does not find it appropriate to order to reinstate or pay back wages, however, finds it just and proper to direct the respondent to pay a sum of Rs.50,000/- as lump sum compensation to the petitioner. The said amount shall be paid within three months from today subject to furnishing of bank details by petitioner.

8. Disposed of.

9. Pending miscellaneous application, if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

09.08.2024
anju

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