



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

CWP-12569-1998

Date of Decision:26.09.2024

ROHTASH KUMAR

..... Petitioner

Versus

**PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT , PANIPAT AND OTHERS**

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : None for the petitioner.

Mr. Ashwani Talwar, Advocate with
Mr. Nikhil Sehrawat, Advocate and
Mr. Deepak Goyal, Advocate for respondent No.1.

Mr. Vishesh Bhatia, Advocate for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 02.07.1998 (Annexure P-1) whereby Labour Court has dismissed his application under Section 33C(2) of Industrial Disputes Act, 1947 (for short '1947 Act').

2. The petitioner was arrested in FIR No.79 dated 06.06.1991, under Sections 148, 149, 302, 323, 324 and 452 of Indian Penal Code registered at Police Station Baroda against the petitioner. It was not at the instance of respondent-Management. He remained in judicial custody from 14.06.1991 to 01.10.1993 i.e. during the entire trial. As soon as he was acquitted, the respondent permitted him to rejoin. He preferred an application under Section 33C(2) of 1947 Act before the Labour Court seeking wages for the period he remained in custody.



3. Mr. Ashwani Talwar, Advocate for the respondent submits that Labour Court has rightly dismissed application of the petitioner. The claim of petitioner was grossly unjustified because Management cannot be asked to pay wages for the period a workman was in custody on account of his own lapse/fault and not on account of fault of Management.

4. The relevant extracts of findings recorded by Labour Court are reproduced as below:

“The applicant placed on record attested copy of judgment dated 05.10.1993 passed by the Learned Additional Sessions Judge Sonapat in Sessions Case No.51 of 1991 and Sessions Trial No.71 of 1992 titled as State Vs. Ram Lal and others and this petitioner Rohtash son of Pokhar was accused No.2 in that case. In that case FIR No.79 dated 06.06.1991 under Sections 148, 149, 302, 323, 324 and 452 IPC, Police Station Baroda was registered on the statement of one Sahib Singh son of Desa for committing murder of Satbir and Ram Kumar and for opening murderous assault on Krishan, Parbhu, Sahib Singh etc. in the area of Putana. Of course this document has not been got exhibited but it can be taken into consideration and from this document it is clear that the respondent concern was not at all responsible for detention of the petitioner in Jail for committing murder and the respondent concern can also not be held responsible for absence of petitioner, from duty during the impugned. Period.

8. The learned representative of the workman has relied on two rulings in support of his stand that the petitioner is entitled for salary for the impugned period. The first ruling is Bose Narain Shukla Vs. P.O. Industrial Tribunal, Haryana and others, 1997 (77) Indian Factories and Labour Reporters, 321. Facts of that case are quite different and



there the management was responsible for absence of the petitioner from duty as he was not allowed to work. This is not the situation in the present case before me where the murder case was not registered at the instance of the respondent concern and in fact the respondent company had no role to play. The second ruling is copy of C.W.P. No. 18810 of 1995 tiled as Sidhartha Woollen Malls V5. Presiding Officer, Labour Court, Panipat and another decided by Hon'ble High Court on 19.4.1996. Facts of that case are also quite different and in that case termination of the services of the workman had been held as illegal by the Labour Court. In the present case before me services of the petitioner workman Rohtash were never terminated by the respondent concern and the moment he reported for duty after acquittal in murder case he was allowed to join duty. So these two ruling can be of no help to the applicant and both these issues are returned against him.”

5. The petitioner concededly remained in custody from 14.06.1991 to 05.10.1993. The respondent gracefully permitted him to rejoin and he abusing the process of law filed an application under Section 33C(2) of 1947 Act seeking wages for the period he remained in judicial custody. He remained in custody not because of fault of Management, thus, the claim of petitioner was highly unjustified. There is no infirmity in the impugned order warranting interference.

6. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

26.09.2024
Ali

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