

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

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**CWP-3366-2024
Date of Decision: April 01, 2024**

Sirion Labs Pvt. Ltd.

...Petitioner

Versus

Amit Choudhary and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Bhupender Pratap Singh, Advocate,
Mr. Madhukar Tomar, Advocate, and
Ms. Jigyasa Tanwar, Advocate,
for the petitioner.

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SANJAY VASHISTH, J.

1. Sirion Labs Private Limited, being management, has assailed the award dated 03.10.2023 (Annexure P-1), passed by the Industrial Tribunal-cum-Labour Court-I, Gurugram (hereafter referred to as, 'the Tribunal'), whereby Reference No. PR/143/17, dated 24.07.2017, under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereafter referred to as, 'the Act'), has been answered in favour of the workman – Amit Choudhary (respondent No. 1 herein).

2. By raising an industrial dispute, the workman had challenged antedated termination order, issued on 28.03.2017, terminating his services w.e.f. 25.01.2017, without making any compliance of the provisions of Section 25-F of the Act.

3. Plead case of the workman is that he joined with the management on 07.01.2015, as Senior Analyst – Financial Management, vide letter of appointment dated 30.12.2014, with carry home salary of

Rs.66,667/- per month. With afflux of time and due to addition of increments etc., his salary was increased to Rs. 82,500/- per month. Despite of continuous working in the office of the management, he was not allowed to join service when he reported back on 30.01.2017, after availing leave from 27.01.2017 to 29.01.2017. The workman further pleaded that on his refusal to resign, the management withheld his legal dues, including monthly wages. Lastly, demand notice dated 03.07.2017, was issued, which after its reference for adjudication, has been answered in favour of the workman.

4. In the written statement filed before the Tribunal, the management pleaded that the services rendered by the workman were not those of a workman because same were purely managerial in nature. His services were terminated by paying him two months salary in lieu of notice period, because there were charges of serious misconduct against him. There had been stark and steady decline in the performance of his services, in the past one year. Despite opportunities, no improvement was shown. Opportunity for resignation was refused and lastly finding no alternative, letter dated 28.03.2017 was issued, thereby terminating his services w.e.f. 25.01.2017, i.e. from a retrospective date.

5. While addressing the arguments, Mr. Bhupender Pratap Singh, learned counsel for the petitioner, relied upon a communication dated 28.03.2017 (Annexure P-4), sent through e-mail, and submitted that notice was issued and the factum of receiving of full and final payment has also been accepted by the workman, in lieu of termination.

This Court is unable to feel satisfied with the said submission,

because from no angle the referred communication is of any help to the petitioner-management. Neither there is any specific communication of advance notice regarding termination of service nor there is a specific reference to the effect that complete amount of Rs.60,000/- has been paid and received in lieu of the notice of termination of services, and that the said amount is the only amount required to be paid to the workman in compliance to the provisions of the Act. Thus, the argument advanced is not found to be convincing.

6. On being asked by the Court, learned counsel for the petitioner-management has not been able to refer to any document or communication, which has been led as a piece of evidence during proceedings before the Tribunal or even appended with the writ petition now at this stage, to show that prior to 25.01.2017, any advance pay notice or notice of termination of service or compensation amount etc. had been paid to the workman to meet out the provisions of the Act. Rather, in clear words, the management counsel states that there is no such communication or any piece of evidence. However, he keeps relying upon the verbal submissions, without supported by any document.

7. To re-examine the plea taken in defence by the management that because of the workman, it had suffered loss of Rs.82.5 lacs, this Court again granted an opportunity to cite any piece of evidence or even notice ever issued to the workman in this regard, prior to 25.01.2017. However, no such convincing submission or documentary evidence has been cited by the management.

As already noticed by the Tribunal, it is also strange that despite such a huge loss caused at the instance of the workman, why no action was ever taken by the management against the workman, for recovery under any provision of law. Thus, the plea of causing financial loss to the management, appears to be concocted one, without any basis or substance.

8. Furthermore, from a reading of para No. 4 of the impugned award, this Court is also of the view that a limited defence was taken by the petitioner-management before the Tribunal that the working of the workman does not fall within the ambit of the definition of ‘workman’ under the Act, therefore, his claim is not covered under the Act. However, nothing in this regard has been submitted before this Court. Neither any submission has been made nor any document has been referred, despite of being reminded by this Court to the learned counsel.

9. After examining all the reasons assigned in the impugned award, and feeling dis-satisfied with the submissions addressed by learned counsel for the petitioner-management, this Court does not find any reason to deviate from the view point taken by the Tribunal.

Accordingly, while maintaining the impugned award dated 03.10.2023 (Annexure P-1), present **writ petition is hereby dismissed.**

(SANJAY VASHISTH)
JUDGE

April 01, 2024
Pkapoor

Whether speaking/reasoned? ✓ **Yes/No**
Whether reportable? ✓ **Yes/No**