

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CWP-13955-1998

Date of Decision:15.04.2024

JAI DEV

.... Petitioner

Versus

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, PANIPAT AND ANR

....Respondents

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Naveen Daryal, Advocate for the petitioner.

Mr. Praveen Chander Goyal, Addl. A.G., Haryana.

SANJAY VASHISTH, J.(Oral)

1. Petitioner-Jai Dev (workman) has filed the present writ petition, assailing the award dated 23.08.1996 (Annexure P-1), passed by Industrial Tribunal-cum-Labour Court, whereby reference No.83 of 1995 has been answered against the workman. Infact learned Tribunal observed that workman-Jai Dev worked only for 159 and ½ days during the twelve Calendar months preceding the date of his termination.

2. Pleaded case of the petitioner(workman) is that he was appointed with respondent No.2-Executive Engineer, Provincial Division No.1, PWD, B&R Branch, Karnal) in the year 1984 and he worked uptill 31.03.1992. As a first attempt, workman filed a civil suit in the Court of learned Senior Sub Judge, Karnal, but same was

dismissed vide order dated 11.10.1994. Infact the claim raised before the civil Court was not maintainable, while pleading that the workman worked from 1984 to 31.03.1992, he completed 240 working days. Another plea was also raised that the workmen junior to him i.e. Sewa Ram, Roshan, Randhir Singh, Iqbal and Som Nath were retained in service, thus, without following the principle of “last come first go”, Management has violated the provisions of Section 25 G and Section 25 H of the Act of 1947.

3. In the written statement filed by the respondent-Management, no specific plea is taken, rather, nor it is explained that whether the workman worked during the period 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991. However, working for a few days in the year, 1992 is admitted.

Somewhere in paragraph No.4, respondent-Management has pleaded that *“Although, the workman has worked for more than 240 days in twelve calender months yet he is not entitled to the protection of sections mentioned in this para”*. Apart from this there is no other explanation.

4. Now, this Court would like to refer to the written statement filed in response to the writ petition filed by workman before this Court. In the written statement Management has appended details of the working days according to which, during those years/days workman attended the office of Management. One fact that needs to be noticed here is that the details appended with the written

statement filed before this Court are in extracted form as per Annexure R-II, wherein workman is shown to have worked for 135 days in the year 1984, 86 days in the year 1985, 132 days in the year 1986, 129 and ½ days in the year 1987 and 182 days in the year 1990. As per details given in Annexure R-I from April 1991 to March 1992, petitioner is shown to have worked for 159 and ½ days.

Surprisingly, these details are missing in the written statement filed before the learned Tribunal, a copy of which is appended with the present writ petition as Annexure P-3.

5. This Court is of the opinion that from the working days, it can be concluded that the workman was continuously serving the department of Management from the year 1984 till March 1992 i.e for about 8 years. However, for the reason best known to the Management, such a long service taken from the workman has not been admitted or even explained in the written statement filed before the Tribunal. It is first time before this Court that the details of the working period, that too in extracted form are appended with the written statement. Meaning thereby, the truth has been concealed by the Management at its first instance i.e. before the Labour Court, where the pleadings were filed by the parties and thereupon the evidence was led to prove the same. Rather, this Court would observe that such a conduct of the Management has deprived the Labour Court to reach the correct conclusion after looking into the required evidence. Infact, Management being a Government office was

expected to produce its complete record for the said eight years period, during which the workman has worked in its office. By not doing so, this Court is constrained to draw an inference, that the workman was working in the office of the Management for more than 8 years and as per the suitability of the Management the record was not produced before the Labour Court for a simple reason that same may go in favour of the workman.

6. Learned Labour Court has answered the reference against the workman primarily for the reason that the workman failed to prove his 240 working days. In view of the circumstances explained, this Court has no hesitation to hold that since workman had worked for more than eight years, more or less continuously, the details of which were kept away from the Labour Court as neither the truthful pleading was raised by the Management, nor the existing evidence was produced.

7. By raising inference, the working of 240 days in the preceding one year of the termination of the workman is held by this Court and therefore, the finding recorded by learned Tribunal is reversed/set aside. Accordingly, writ petition is allowed by observing that termination is in complete violation of the Section 25 F of the Act of 1947.

8. As a consequence of allowing the writ petition, this Court is conscious of the present status of the parties and, therefore, deems it appropriate to award one-time lump sum compensation amount to the

petitioner-workman in view of all the relief claimed by him through the demand notice before the Labour Commissioner. Accordingly, taking note of the fact that workman rendered his service for more than 6 years, the lump sum amount of compensation of Rs.3 lacs towards all the heads of relief claimed by him, would be sufficient to satisfy the claim. Accordingly, respondent No.2. is directed to pay a lump sum amount of compensation of Rs.3,00,000/- (Rupees three lacs) to the workman on or before 18.07.2024.

9. In case, said amount of Rs.3,00,000/- (Rupees three lacs) is not paid within the stipulated period, respondent No.2-Management shall be liable to pay interest @ 6% per annum over the said amount of Rs.3,00,000/- (three lacs) with effect from 18.07.2024 and onwards.

April 15, 2024
rashmi

[SANJAY VASHISTH]
JUDGE

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no