

CWP-17046-1997 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-17046-1997 (O&M)

Decided on : 05.04.2024

Budh Singh

. . . Petitioner(s)

Versus

Presiding Officer,
Industrial Tribunal-cum-Labour Court-I,
Faridabad and another

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. A.S. Bhandari, Advocate
for the petitioner(s).

Mr. Anil Shukla, Advocate
for respondent No.3.

SANJAY VASHISTH, J. (Oral)

1. Petitioner – Budh Singh, has filed the present writ petition, assailing the award dated 16.10.1996 (Annexure P-7), passed by the Industrial Tribunal-cum-Labour Court-I, Faridabad (in short, ‘learned Tribunal’), vide which, Reference No.543 of 1987, under Section 10(1)(C) of the Industrial Disputes Act, 1947 (for brevity, ‘ID Act’), has been answered against him.

2. Pleaded case of the workman is that he was employed with respondent No.2 i.e. M/s Micro Grain Steel, Plot No.97, Sector 24, Faridabad, on 01.08.1986, as a skilled workman with a salary of Rs.800 p.m. His services were terminated on 15.09.1987, and immediately thereafter, on 17.09.1987, workman got served the demand notice upon the respondent – Management, asking therein for reinstatement in service along with back-wages. Thus, the workman claimed that his termination from service is in

violation of the ID Act.

3. In the written statement filed by respondent No.2 – Management, employment of the workman had been admitted by stating that actually, he joined service on 29.04.1987 and not on 01.08.1986 and workman never came back on duty after 30.08.1987. Further pleaded that an amount of Rs.2,000/- had been taken by him as advance, and therefore, he stopped coming to the factory from 30th August, 1987. Thus, as per the stand of the Management, it is a case of abandonment from service, not the termination.

4. After taking note of the stand taken by the parties, and examining the relevant material and evidence available on record, learned Tribunal recorded its finding, which is reproduced here-under:-

“ It has been argued that the workman had made request on 1.2.1993 for summoning an expert witness and that his request was declined by the then Presiding Officer and that now the disputed signatures may be compared with the admitted signatures by the Court itself. The point has already been discussed above. The repetition would be unnecessary.

Mohan Gupta, the Factory Manager of the respondent has stated that the claimant was recruited on 29.4.1987. However, there is no attendance or name of the claimant for 29.4.1987 or 30.4.1987. It has been argued that Mohan Gupta has told a lie. The record shows that his name was entered from first of May, 1987. It is no matter that the claimant worked for two last days for the month and his name was not entered. May be that it was a trial for him. It has specifically been so stated by Mohan Gupta that he had joined on trial.

The case of the management is that they have written two letters to the workman, one on 5.9.1987 and other on 10.9.1987. The claimant has denied to have received these letters. Then there is 3rd letter dated 18.9.1987 it is Ex.M-13 on record. The earlier two letters M-9 and M-11 had not been referred in this

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3rd letter. It has been argued that since the 3rd letter does not refer to the first two letters so it may be presumed that first two letters were forged. The non-mentioning of the earlier letters in a later letter in itself does not prove the earlier letters to be forged documents. If there is a specific allegation of forgery and it is proved through an independent evidence then this omission may be a factory which may be added to the evidence of forgery. Earlier while discussing omission of M-1, letter of appointment in the demand notice, I had drawn that inference that letter M-1 might have been forged by that time. I have so held because there is other overwhelming independent evidence of the forgery M-1. The omission of these two letters M-9 and M-11 in the contents of M-13 cannot be equated with the omission of reference of M-1 in the demand notice.

The case of the management is that the workman had not come on work after 30.8.1987. However, claimant stated that he worked upto 14.9.1987. The claimant has been paid the wages for 14 days of September, 1987 through the Authorities under the Payment of Wages Act. I cannot go by what had been led there. I have to see what independent evidence has been brought before me. The register Ex.M-21 shows that the name of this workman was not here for the month of September, 1987. In cross examination this witness has admitted the correctness of this register. Hence it cannot be held that the management had told a lie on that point.

The case of the claimant is that he had moved an application for appointment and then he was given the letter of appointment. The management has denied to have received any such application. It has been argued that the management has withheld that application deliberately last the case of the claimant should be proved that he had applied on or before 1.8.1986. As stated above the management has stated that no such application was there. There cannot be drawn any inference that an application is necessarily made before an appointment is given.

Lastly the workman has referred to three authorities in support of his above arguments. They are :-

1. National Engineering Industries Ltd. Vs. Shri Shri Kishan Bhageries and others: 1986 L.L.J. 363 (S.C.)

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2. Delhi Consumer Co-op, Wholesale Stores Ltd. Vs. Secretary (Labour) and etc.: 1983 LAB.I.C. 1652,
3. 1986 L.L.J. 332.

In view of the above discussed facts, there three authorities are not of any avail to the claimant in this case.

Issue No.1 goes against the claimant and it is decided accordingly.”

5. After taking note of the circumstances on previous date of hearing i.e. 21.02.2024, this Court passed the following order:-

*“Present: Mr. A.S. Bhandari, Advocate
for the petitioner(s).*

*Mr. Shub Karman Kumar, Advocate for
Mr. Anil Shukla, Advocate, for respondent No.3.*

1. *Present writ petition has been filed by the petitioner (workman) – Budh Singh, challenging the award dated 16.10.1996 (Annexure P-7), passed by the Industrial Tribunal-cum-Labour Court-I, Faridabad (for brevity, ‘learned Tribunal’), whereby, industrial dispute raised by the petitioner under Section 10(1)(C) of the Industrial Disputes Act, 1947 (in short, ‘ID Act’), vide reference No.543 of 1987, has been answered against him.*

2. *Finding of fact was recorded by the learned Tribunal that the petitioner – workman is not entitled for reinstatement. As per the facts, discussed in the award, workman lastly worked upto 14.09.1987. Thereafter, said impugned award (P-7) was assailed by the petitioner – workman before this Court by way of present writ petition, which is lying admitted since 18.11.1997.*

3. *It is noticed that on 07.11.2013, this Court noticed the office report dated 31.08.2013, as per which, notice issued to respondent No.2 respondent No.2 (M/s Micro Grain Steel), has been received back unserved with the report that this company has been closed since long ago.*

4. *On joint request of counsel for the parties, adjourned to 05.04.2024, for arguments.”*

6. Counsel for the petitioner – workman submits that as per the

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information received by the petitioner, the factory i.e. respondent No.2, has already been closed down and said fact is confirmed by counsel appearing for respondent No.2 – Management, before this Court also.

7. Therefore, taking note of the situation that dispute of the parties pertains to the year of 1987, and respondent No.2 – Management, has also closed down its office/factory more than a decade back.

Besides, it is uncertain, whether any substantial issue requiring its adjudication, still survives at this stage. Moreover, nothing as material discrepancy has been pointed out by counsel for the petitioner – workman, from the finding recorded by learned Tribunal in the impugned award (P-7). Accordingly, while maintaining the impugned award (P-7), the present writ petition is hereby dismissed.

(SANJAY VASHISTH)
JUDGE

April 05, 2024

J.Ram

Whether speaking/reasoned: ✓ Yes/~~No~~

Whether Reportable: ~~Yes~~/No ✓