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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-17719-1998

Date of Decision: April 03, 2024

Haryana State Electronics Development Corporation Limited
.... Petitioner
Versus

Sunder Lal and another
....Respondents

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Pankaj Gupta, Advocate, and
Ms. Seema Gupta, Advocate,
for the petitioner.

None for respondent No. 1.

SANJAY VASHISTH, J.

1. Petitioner-Haryana State Electronics Development Corporation Limited (being management) has filed the present writ petition, under Articles 226/227 of the Constitution of India, seeking quashing of the impugned award dated 19.03.1998 (Annexure P-1), whereby Industrial Tribunal-cum-Labour Court, Gurgaon (hereafter referred to as, 'the Tribunal'), has answered Reference No. 506 of 1992, under Section 10(1)(c) of the Industrial Disputes Act, 1947 (hereafter referred to as 'the Act'), in favour of respondent No. 1 - Sunder Lal (workman), holding him entitled to reinstatement with continuity of service and full back wages.

2. Admitted facts are that the workman was appointed as a Mali w.e.f. 20.03.1990, and continued in service as such, upto 11.07.1992. He was drawing wages @ Rs. 992/- per month at the time of termination of his

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services. The workman raised an industrial dispute by asserting that his services were illegally terminated by the management w.e.f. 11.07.1992, in violation of the provisions of Section 25-F of the Act, i.e. without payment of any compensation. On the other hand, defence taken by the petitioner-management is that the workman had abandoned the service of his own w.e.f. 11.07.1992, and never turned up thereafter.

3. It has come on record, by way of evidence of Harish Chander, MW-1, that no inquiry was conducted against the workman for allegedly remaining absent from duty. Though it was stated on behalf of the management that one letter was written to the workman to join duty, but no such letter has been produced and proved by the petitioner-management. The said witness also admitted the fact that no compensation was paid to the workman.

4. After appreciation of the evidence, the Tribunal has come to the conclusion that termination of services of the workman is not justified because admittedly no opportunity of defending himself, was ever afforded to him. Accordingly, the Tribunal has held the workman entitled to reinstatement with continuity and full back wages.

5. At the time of issuing notice of motion of the present writ petition, only payment of backwages was stayed, vide order dated 15.12.1998. On 21.04.1999, when the matter came up for consideration, counsel for the petitioner-management made an offer that in case the respondent-workman gives up the claim for back wages, he would be reinstated. However, the said offer was refused by the workman. The matter was referred to the Daily Lok Adalat after its admission, but no one on

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behalf of the petitioner-management appeared before it, for settlement, accordingly vide order dated 06.12.2016, the matter was sent back for adjudication by the Bench of Daily Lok Adalat, by specially observing that *“It seems that petitioner is not interested in getting the matter settled by way of compromise in Lok Adalat.”*

This is how, this petition has come up for final adjudication today before this Court.

6. Despite recording of specific finding by the Tribunal that it is not a case of voluntary abandonment, inasmuch as, the petitioner-management has failed to prove that any inquiry, show cause notice etc. for alleged absence from duty, was ever conducted or issued to the workman, thereby affording him an opportunity to defend himself, still, there is an attempt by the petitioner-management to challenge the findings on merits by submitting that, in fact, it is a case of voluntary abandonment and not the violation of Section 25-F of the Act.

7. During pendency of the present writ petition, even the management made an offer for reinstating the workman, in case he gives up the claim for back wages. This fact strengthens the conclusion of the Tribunal that the case in hand is not of voluntary abandonment.

8. This Court finds that the petitioner-management is taking the same plea time and again, without any substance, and there being no satisfactory answer available on record or reference in the impugned award, nor even during the course of hearing before this Court that if there was absence by the workman because of his own conduct, then why the management was still ready to allow him to join.

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9. Finding no infirmity in the findings recorded by the Tribunal, warranting interference by this Court, present writ petition sans merit and while upholding the impugned award dated 19.03.1998 (Annexure P-1), passed by the Tribunal, the present petition is hereby **dismissed**.

(SANJAY VASHISTH)
JUDGE

April 03, 2024
Pkapoor

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