



CWP-11349-2000(O&M)

-1-

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

211

**CWP-11349-2000 (O&M)
Date of decision: 08.08.2024**

MAHA SINGH**....PETITIONER****Vs.****STATE OF HARYANA AND OTHERS****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. R.S. Kundu, Advocate
for the petitioner.

Mr. Raman Sharma, Addl. A.G., Haryana.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of Award dated 01.03.1996 whereby Labour Court has answered the reference against him.
2. The petitioner claims that he worked with respondent during 1990-1991 and thereafter he was terminated without notice and compliance of Section 25-F of Industrial Disputes Act, 1947.
3. Mr. R.S. Kundu, Advocate submits that management did not permit the petitioner to work and he was illegally terminated. He had worked during 1990 as well as 1991. Thus, there was no question to abandon the job in 1992. The Tribunal has wrongly answered the reference against him.
4. I have heard counsels for the parties and with their able assistance perused the record.



5. From the perusal of record, it comes out that Labour Court has concluded that petitioner, as per evidence on record, worked during 1990 for 274 days and 1991 for 307 days. He was terminated in 1992 but there is no evidence of his work during 1992. The Tribunal concluded that petitioner has failed to prove that he had worked for 240 days during 1992 i.e. preceding 12 months. Thus, he is not entitled to the benefit of protection extended by Section 25-F of Industrial Disputes Act, 1947. The relevant extracts of findings recorded by the Tribunal are reproduced as below:-

“Issue No. 1.

Maha Singh WW-1 has stated on oath that was engaged as Beldar in the year 1972 and he continued to work as such upto October or December 1992 when his services were terminated without assigning any reason and without following the procedure laid down in section 25-F of the Industrial Disputes Act. Statement of Jaipal Singh has no relevant. Some record was summoned from him but he failed to produce that record as the same was not with him. Inder Singh WW-3 brought the concerning the attendance of Maha Singh for the year 1990-91 and 1992. According to him Maha Singh worked for 274 days in the year 1990, 307 days in the year 1991. He has stated categorically that as per record available in his office Maha Singh did not work for single day in the year 1992. To the same effect statement of B.R. Manoch MH-1. He has also stated that Maha Singh worked for 274 days in the year 1990 and 307 days in the year 1991 and he did not work for single day in the year 1992. He has stated categorically that services of Maha Singh were never terminated and infact he left the job at his own accord.

It has been argued by Sh. R.S. Dahiya learned authorised representative of the management that the workman has to prove his own case and he cannot make out nothing case for the first time before this tribunal. According to Sh. R.S.Dahiya the workman has come forwarded with a specific plea that his services have been



terminated at the end of December 1992. According to Sh. R.S. Dahiya there is no evidence on record to prove that services of Maha Singh were terminated in the month of December 1992. Rather the workman has failed to prove that he worked ever for a single day in the 1992. In support of his contention Sh. R.S. Dahiya has cited case titled V.N. S. Engineering and Services Company Vs. Industrial Tribunal Goa, Daman and Diu and another reported in 1987(2) L.L.N. 968. The Hon'ble High Court has held as under:

“There is nothing in the Industrial Disputes Act that causes the Court to depart from the general rule that he who approaches a Court for relief should prove his case. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation the test, therefore, being that he who does not lead evidence must fail.

In another case titled English Electric Company of India Ltd. Vs. Industrial Tribunal Madras and another reported in 1989(1)L.L.J 141. The Hon'ble Madras High Court has held that the party cannot be permitted to put forth the difference date of termination before the tribunal. In the case cited above the case of the Union has to be put forth by it in the demand notice and the claim statement was that the services of workman concerned was terminated on 13th of October whereas the stand taken by it before the tribunal was different. So, the Hon'ble High Court has held that it was the duty of the union to prove that the services of the workman was terminated by way of non-employment w.e.f.13.10.1980. The ratio of both the case cited above is applied from the circumstances of the present case. In the demand notice and even in the statement made on oath the workman has admitted that his services were terminated in the month of December 1992. Whereas in the evidence laid by the management it is proved that the workman did not turn up for duty after 31st of December 1991. The workman was required to prove that he put in services for more



than 240 days in twelve calander months proceedings the date of his termination i.e. 31st of December 1992. He has failed to prove this fact.

Thus, from the evidence on record and from the Statement of B.R. Manocha stands prove that the workman did not report for duty after December 1992 and he left the services at his own accord. Even the workman has failed to prove that he put in service for 240 days in twelve Calander months precedings the date his termination. So, termination of his services is perfectly valid and in accordance with law.”

6. From the perusal of afore-cited findings, it is evident that petitioner miserably failed to prove that he had worked during 1992 for 240 days. He is claiming protection of Section 25-F of Industrial Disputes Act, 1947 whereas it is available to a workman who had worked for 240 days during preceding 12 months. As the petitioner failed to prove that he had worked for 240 days during 1992, thus, he was not entitled to protection of Section 25-F of Industrial Disputes Act, 1947. This Court, does not find any jurisdictional error or manifest illegality in the impugned Award warranting interference.

7. Dismissed.

8. Pending miscellaneous application(s), if any, shall also stand disposed of.

08.08.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No