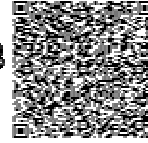


2024:PHHC:108773



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

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CWP-4812-2001

Date of Decision : 23.08.2024

HARMESH SINGH

.... PETITIONER

V/S

PRESIDING OFFICER, LABOUR COURT, AMBALA AND ANR.

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Jasbir Singh, Advocate
Mr. Joy Preet Mellsu, Advocate and
Mr. J.S.Manipur, Advocate
for the petitioner.

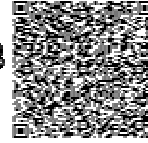
Mr. Raman Sharma, Addl.A.G., Haryana.

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 whereby Labour Court has answered the reference against the workman.

2. The Labour Court by impugned order dated 31.08.2000 answered the reference against the workman. The Court formed an opinion that workman during preceding 12 months has not worked for 240 days.

3. Mr. Manipur, Advocate points out that there was mistake on the part of Labour Court while calculating days of work and period of preceding 12 months. The Labour Court has considered the period



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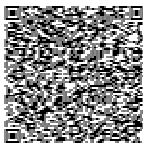
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commencing from November' 1994 to 09.10.1995 whereas correct period was 10.10.1994 to 09.10.1995. If the days of October' 1994 are counted, the petitioner had worked for more than 240 days during the preceding 12 months.

4. From the perusal of impugned order, it appears that there was mistake on the part of Labour Court while calculating period of 12 months preceding the date of termination. The petitioner had worked for 240 days during the preceding 12 months, thus, he was entitled to protection guaranteed by Section 25-B read 25-F of Industrial Disputes Act, 1947.

5. The petitioner joined respondent on daily wage basis in July'1988 and was terminated on 10.10.1995. The impugned award was passed on 31.08.2000. A period of 29 years from the date of retrenchment and 24 years from the date of award has passed away. The petitioner was a daily wage worker and it is highly improbable that he had not worked during the preceding two decades.

6. In **Senior Superintendent Telegraph (Traffic), Bhopal vs. Santosh Kumar Seal and others, (2010) 6 SCC 773, Hari Nandan Prasad and another vs. Employer I/R to Management of Food Corporation of India and another, (2014) 7 SCC 190, District Development Officer and another vs. Satish Kantilal Amrelia, (2018) 12 SCC 298, State of Uttarakhand and another vs. Raj Kumar (2019) 14 SCC 353 and Ranbir Singh vs. Executive Engineer PWD (2021) 14 SCC 815** Supreme Court has held that it is neither mandatory nor



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automatic to reinstate workman who has been retrenched without complying with provisions of Section 25F of 1947 Act.

7. Keeping in mind paras 50-52 of judgment of Supreme Court in **Central Council for Research in Ayurvedic Sciences and another v. Bikartan Das and others, 2023 SCC OnLine SC 996** and to put the litigation to rest, this Court considering the length of service and last drawn pay of the workman; efflux of time and change of circumstances, deems it appropriate to direct the management to pay a sum of Rs. 1,50,000/- as lump sum payment to workman. Let the needful be done within 3 months from today.

8. Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

23.08.2024
anju

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No