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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5814-2005 (O&M)
Date of Decision: 16.12.2024

RAJENDER

..... Petitioner

Versus

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, HISAR AND ANR. Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. T.C. Dhanwal, Advocate for the petitioner.

Mr. Raman Sharma, Addl. AG, 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 28.05.2004 (Annexure P-11) whereby Labour Court has answered the reference against him.

2. The petitioner claims that he was appointed as Chawkidar by respondent on 01.04.1997. He was terminated on 31.03.1999. On his application, matter came to be referred to Labour Court which vide impugned Award dated 28.05.2004 (Annexure P-11) rejected his claim on the ground that he has not completed 240 days during 12 months preceding the date of his termination, thus, he is not entitled to benefit under Section 25F of Industrial Disputes Act, 1947 (for short 'ID Act').

3. Mr. T.C. Dhanwal, Advocate for the petitioner submits that findings recorded by Labour Court are erroneous and workman needs to be reinstated with back wages. The Labour Court has rejected claim of the petitioner on the ground that he has failed to prove that he had worked



for 240 days during 12 months preceding the date of his termination. The findings recorded by Labour Court are reproduced as below:

“11. I have considered the above arguments and gone through the record on file. The version of the claimant is that he had worked from 1.4.97 to 31.3.99 for more than 240 days whereas the version of the management is that the claimant had worked only for 35 days from June 1997 to December 1997 and for 138 from January 1998 to December 1998 and he had never completed 240 days. Now the question to be adjudicated is whether the claimant has worked for 240 days in 12 months preceding to the termination of services of the claimant. As per the version of the claimant the preceding 12 months would be from April 1998 to March 1999. It is settled principle of law that onus to prove that workman has worked for 240 days in preceding 12 months to make his service continuous within its meaning in Section 25-B of the Act to take the benefit of Section 25-F is upon the workman himself. Support in this regard if any, can be sought from Punjab State Electricity Board, Patiala and another Vs. 1996 (4) RSJ 662. But in the case in hand, the workman has miserably failed to prove the same the management had produced the record of attendance of the workman from June 1997 to December 1998 according to which the claimant had worked only for 89 days during the period from April 1998 to March 1999 meaning thereby the claimant had not worked for 240 days in 12 months preceding to his alleged termination.

13. The submission of the counsel for the workman that the management has taken the services of the claimant under fictitious names is also without merits. Moreover, the report of the expert witness Ex. W-2 also cannot be relied upon in view of the case law referred to above by the counsel of management. Even if for the sake of arguments the working days of May, June and July 1998 during which claimant has



been stated to be worked in fictitious names as per the report of the expert Ex. W-2, even then the claimant has failed to prove that he has completed 240 days.

14. In the light of above discussion it is amply established that claimant has not completed 240 days in 12 months preceding to his termination. So, his services cannot be said as 'continuous' and therefore, he is not entitled to any relief under Section 25-F of the Act.

15. In the light of above discussion both these issues are hereby answered accordingly in favour of the respondent management and against the workman.

16. Sequel to the findings on the above issues, this reference is hereby answered accordingly in favour of the respondent management and against the workman, to the effect that it cannot be said that the termination of service of Sh. Rajender was not in order or unjustified. He is not entitled to any relief.”

4. This Court does not find any jurisdictional error or factual infirmity in the impugned Award. In any case, the workman even as per his own averment had worked for less than 2 years and was terminated in 1999. The impugned Award was passed on 28.05.2004 (Annexure P-11). There seems no reason to interfere with the impugned award at this belated stage.

5. Dismissed.

6. Pending misc. application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

16.12.2024
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No