

2024:PHHC:095178



CWP-17483-2024

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

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CWP-17483-2024

Date of Decision : 29.07.2024

BALDEV SINGH

.... PETITIONER

V/S

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL LUDHIANA AND
ANR.

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present :- Mr.D.R.Punia, Advocate
for the petitioner.

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 22.04.2022 whereby Industrial Tribunal has answered reference against him.

2. The petitioner joined respondent-company as Store-Keeper/ Manager on 14.02.2012. The management on 04.02.2017 terminated him. On his request, reference under Section 10 of Industrial Disputes Act was made to Industrial Tribunal which vide award dated 22.04.2022 has answered against him. His claim has been declined on the ground that he does not fall within the definition of workman. The relevant extracts of the findings recorded by Industrial Tribunal are reproduced as below:



“The moot points which beg adjudication are whether the workman falls within the provisions of workman as defined under the ID Act and whether the workman himself tendered the resignation on 19.1.2017 by giving one month notice. Though the workman reiterated his version in his deposition, but he was fair enough to concede in his cross examination that he has been performing the service of Store Manager with the respondent since the appointment. He did not mince a word that three other employees were working under his supervision. But he also admitted in the next breath that he was using the mail Id on the website being store manager with the respondent. It is also admitted version of the workman is that he was getting salary of Rs. 48,5000/- per month at the time of his illegal termination. From the categorical evidence of MW-1 Maninder Singh, it stands proved that he was not only performing supervisory duties over three employees, but also getting the salary of Rs.48,500/-. Thus, he does not fall within the definition of workman under section 2(s) of the ID Act. For ready reference section 2(s) is reproduced as under:

"Workman" means any person (including on apprentice) employees in any industry to do any manual, unskilled, skilled, technical, operational, clerical, or supervisory work for hire or reward, whether the terms of employment be express or implied and for the purposes of any proceedings under this Act in relation to an industrial dispute, includes any such person who has been dismissed,

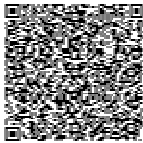


discharged, or retrenched in connection with or as a consequences of that dispute or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person.

- i) Who is subject to the Air Force Act, 1950 45 of 1950, or the Army Act. 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957), or*
- ii) Who is employed mainly in a managerial or administrative capacity, or*
- iii) who is employed in the police service or as an officer or other capacity; or*
- iv) Who being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mense or exercise, either by the nature of they duties attached to the office or by reason of the powers vested in him functions mainly of a managerial nature.*

14. When the workman does not fall under the definition of the workman, no relief can be granted to him under the provisions of ID Act. Not only the applicant was performing duties of AGM marketing, but he was also receiving wags/salary of more than 10 thousands per month. Thus, he is not covered by the provisions of section 2(s) of the ID Act.”

3. On being confronted with aforesaid findings of the Tribunal, Mr. Punia, counsel for the petitioner neither could controvert the said findings nor adduce any contrary evidence.



4. This Court is not a Court of appeal. The Tribunal on the basis of evidence on record has concluded that the petitioner does not fall within the definition of workman. There is no infirmity in the findings recorded by Tribunal.
5. In the wake of above discussion and findings, this Court does not find any jurisdictional error or manifest illegality or infirmity warranting interference.
6. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

29.07.2024
anju

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