

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-15502-2014(O&M)
Date of Decision:20.04.2024

STATE OF PUNJAB AND ORS

.... Petitioner

Versus

THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
BATHINDA AND ANR

....Respondents

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Brijesh, Asst. A.G., Punjab.

Mr. Sumit Jain, Advocate for
Mr. B.D. Rana, Advocate
for respondent No.2.

SANJAY VASHISTH, J.(Oral)

1. Present writ petitioner has been filed by the Department of Irrigation (being Management), challenging the award dated 21.01.2014 (Annexure P-17), passed by respondent No.1-The Presiding Officer, Industrial Tribunal, Bathinda, whereby reference No.54 of 2007, filed under Section 10 (1) (c) of the Industrial Disputes Act, 1947 (for short, the Act of 1947'), has been answered in favour of the workman-respondent No.2.

2. Pleaded case of respondent No.2-workman is that he was employed with petitioner-Management as Dak Runner on a permanent job since 03.01.2001 on a monthly salary of Rs.2180/-, however,

without issuing any notice, charge sheet/inquiry or paying compensation, he was terminated from service on 01.03.2003.

3. On the other hand, petitioner-Management in its written statement pleaded that the workman had not completed 240 working days in the preceding year of the date of his termination and that he was paid salary on DC rates against the working days.

4. On examination of the record, learned Tribunal gave its findings in paragraph No.15 and on the basis of the documentary evidence i.e. Ex.DW1 to Ex. DW-14, work done by the workman was assessed. Learned Tribunal reached to the conclusion that the workman had completed more than 240 working days in preceding year of his termination in the department of petitioner-Management. Even, Gurmeet Singh, SDO, who appeared as MW-1, admitted that no show cause notice or charge sheet was ever issued to the workman and also admitted that even never any compensation amount was paid.

Not only this, there is a clear admission by the petitioner-Management that the workman worked with the petitioner-Management for a period of 327 days in the last calendar year preceding to his termination.

5. Petitioner-Management also pleaded that the appointment of the workman was on contract basis for a fixed term. Therefore, there was no requirement to comply with the provisions of the Act of 1947. For arguing this, the Management relied upon Section 2 (oo) (bb) of the Act of 1947.

6. For the sake of convenience, findings recorded by learned Tribunal in paragraph Nos. 15 and 16 is reproduced here below:

“15. I have considered the arguments advanced before me and I have also gone through the record, carefully. As per the version of the workman, he was employed as Dak Runner since 03.01.2001 with the respondent at the salary of Rs.2180/- per month. His services were terminated on 01.03.2003 without any notice, inquiry or compensation and as per the version of the claimant, there were notional breaks in his service just to defeat his right and there are different documents on record Ex. W-1 to Ex. W-13 and Ex. W-14 is the detail of the work done by the workman, which shows that workman was appointed vide order No.8 dated 03.01.2001 and he worked upto 28.02.2003 and if we count the days, which workman continuously worked with the respondents in the last calendar year, then it became clear from Ex. W-14 that workman has completed more than 240 days of service. It has also been admitted by MW-1 Gurmeet Singh, SDO during his cross examination that it is correct that workman was employed as Dak Runner on 03.01.2001 and he worked with them upto 28.02.2003. It has further been admitted that no show cause notice, charge-sheet was served upon him nor any inquiry was conducted nor any compensation was paid to him before termination of his services. It has also been admitted that workman has worked with the respondent for a period of 327 days in the last calendar year preceding to his termination. He has also admitted that services of the workman namely Baljit Singh, who worked with the present workman, have been regularized.

16. Since, there is clear cut admission of the sole witness examined by the respondent that workman served the department from 03.01.2001 to 28.02.2003 with notional breaks, which shows that workman has served the department for more than 240 days in the last calendar year preceding to his alleged termination. Moreover, this fact has also been admitted by the sole witness examined by the respondent that before terminating the services of the workman, no notice or charge-sheet was served upon him nor any inquiry

was conducted nor any compensation was ever paid to him. It is also admitted fact that juniors to met workman are still working with the respondent and their services have been regularized. Hence from this clear cut admission, it stands established on file that workman has served the respondent/department for more than 240 days and before his termination, no proper procedure was followed by the respondent. Hence this Tribunal constrained to hold that termination of the services of the workman is illegal, unjustified and against the principles of natural justice. So, workman is entitled to be reinstated with continuity of service and he is also entitled to be considered for regularization of his job as per the Departmental rules and instructions. So far as claim of back wages is concerned, he has not served the Department from 28.02.2003 onwards. Therefore, he is allowed 30% back wages from the date of demand notice i.e.10.07.2006 till joining of his duty. As such, these issues are decided in favour of the workman and against the respondents.”

7. Learned State counsel submits that the said award has been passed ignoring the provisions of law enshrined in Section 2 (oo) (bb) of the Act of 1947.

8. This Court has deeply perused the award and does not find any substantial reason to interfere with the well reasoned findings recorded by learned Tribunal, which is based upon the examination of the facts available on record. Thus, by maintaining the same, present writ petition is hereby **dismissed**.

April 20, 2024
rashmi

Whether speaking/reasoned
Whether reportable?

[SANJAY VASHISTH]
JUDGE

yes/no
yes/no