



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

208

CWP-11611-2017

Date of Decision : 22.11.2024

DEVKI NANDAN

.... PETITIONER

V/S

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-II, GURUGRAM AND ORS

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Suresh Kumar Kaushik, Advocate
for the petitioner.

Ms. Harsh Rekha Kapoor, AAG, 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 17.02.2017 (Annexure P-5) whereby Labour Court has answered the reference against him.

2. The petitioner claims that he worked with respondent from September' 1996 to December' 1999 as Beldar. He was abruptly terminated as one State Minister was interested in another person who was ultimately appointed in his place.

3. The respondent in its reply has categorically stated that the petitioner at his own stopped working after December' 1999. He was not a regular worker whereas was working for a few days in the year. The

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relevant extracts of respondent's reply are reproduced as below :

“That the contents of para No. 3 of the Writ Petition are wrong and denied. It is wrong and denied that service of petitioner was terminated on 10.12.1999 by leveling, false and frivolous allegations. In this respect it is respectfully submitted that initially petitioner was engaged as daily wages against muster role and thereafter respondent department has been taking him on contract basis for 89 days for various spells. He has been coming on work with various breaks out of his own sweet will till December 1999. The details of his work period from 09/1996 to 11/2006, 04/1997 to 06/1998 and on contract basis from 12/1996 to 03/1997 and 07/1998 to 09/1998 and 11/1998 to 04/1999 are detailed in the Annexure R-1 to R-7. In view of above submission it is evident that petitioner has never completed 240 days service except in the year 1997 (Annexure R-2). It is further submitted that after 1999 petitioner had not turned up on work. Accordingly it is wrong and denied that his services were terminated on 10.12.1999. Thus in the light of above mentioned facts petitioner is not entitled for protection of section 25F of Industrial Dispute Act.”

4. The Labour Court has recorded categoric finding to the effect that the petitioner did not complete 240 days during 12 months preceding the date of his termination, thus, he was not entitled to benefit of Section 25-F of ID Act. The findings recorded by Labour Court are reproduced as below :

“14. As per the demand notice and own affidavit Ex.P1/A of the workman, his services

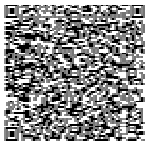
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were terminated on 10.12.1999, therefore, it is to be seen whether he had completed 240 days in 12 calendar months preceding to that date. According to the made calculation from the given details, during the said period, he had worked for 129 days (31 days in December, 1998 and 108 days in the following year.) the workman in his cross-examination has also clearly stated that except of the year 1997 & 1998, he did not work for more than 240 days in the other calendar years of his job. Hence, for the want of qualified length of service, no legal right accrues in his favour. Under the distinguishable facts of present case, the ratios of cases titled Bhuvnesh Kumar Dwivedi & Jasmer Singh are not helpful to the workman. Further, as the present case is relating to the industrial dispute only, therefore, the ration of ONGC Ltd. Case regarding the regularization of services is also not applicable here, as the same does not come within the domain of present court.

15. Consequent to the above-said observation and made discussion, as the workman has failed to prove the required length of his service from the date of cause of action which is under the reference, therefore, the protection of the Act is not available to him and it cannot be said that his services were terminated wrongly and illegally or to facilitate someone else. Accordingly, issue No.1 is decided against the workman.”

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5. From the arguments of both sides and perusal of record, it is evident that the petitioner had not worked for 240 days during 12 months preceding the date of his termination, thus, he was not entitled to protection guaranteed by Section 25-F of ID Act.

6. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

22.11.2024
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Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No