

Neutral Citation No: 2024 PHHC 069529
CWP-15669 of 2016



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-15669 of 2016
Decided on: 15.05.2024

THE EXECUTIVE ENGINEER, ENGINEERING DIVISION
No.2, BHIWANI TEHSIL AND DISTRICT BHIWANI AND ANR
.....Petitioners

Versus

DAYA RAM AND ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Satish Singla, Asst.A.G., Haryana.

Mr. Brijender Kaushik, Advocate for respondent No.1

SANJAY VASHISTH, J.(Oral)

1. Through present writ petition, petitioner-Management has assailed the award dated 28.01.2016 (Annexure P-1), vide which respondent No.2-Daya Ram (workman) has been ordered for reinstatement with continuity in service alongwith all other consequential benefits except of the back wages, thus, reference No. 17, filed under Section 10(1) (c) of the Industrial Disputes Act, 1947 (for short, 'the Act of 1947') has been answered in favour of workman.

2. Pleaded case of the workman was that he was appointed on 01.08.2011 with the Management as Operator/Key man on D.C. rates and as such he was posted on Booster situated in District Jail, Bhiwani. He used to operate the machine of the booster and



open/close the water supply line to supply water from time to time and also repair the pipe lines, whenever need arose. A log book was also maintained on the booster, which was duly signed by the permanent employee and other officials of the department from time to time. Further pleaded that he continued rendering his services upto 30.09.2014, however, on 01.10.2014, the workman was not allowed to resume his duty verbally by saying that “ your services are no more required”. Thus, workman pleaded before Labour Court that his services were terminated in utter violation of principles of natural justice. It was also pleaded that neither any notice; nor notice pay or retrenchment compensation was paid, thus, the action of terminating the workman from services is in violation of provisions of Section 25-F, 25-N, 25-G and 25-H of the Act of 1947. It was further pleaded that the employees junior to him have been retained in service.

3. In the written statement filed by the Management, apart from the formal objections, it was pleaded that the workman was never appointed/engaged by the Management. He had worked under various contractors on various sites as per requirement of the work/job. It was further pleaded that never any log book was issued. It was also pleaded that no question of removal from service arises, once the workman was never appointed by the Management.



4. Reiterating the claim raised in the claim statement, replication was filed by the workman and thereupon following issues were framed by learned Labour Court requiring adjudication:

*“1. Whether the termination of services of the petitioner is legal or not? If so, to what relief he is entitled to? OPP
2. Relief.”*

5. Management before this Court addresses the arguments, which had already been addressed before the Labour Court and submits that workman was never appointed by it as Operator/Key Man on D.C. rates. Infact the workman had worked under various contractors on various sites as per the requirement of the work/job. Further submits that never any log book was issued by the Management as alleged by the workman.

6. To counter the stand of the Mangement, workman himself appeared as WW3 and tendered in evidence a document Mark-‘A’ alongwith his own affidavit (Ex. WW3/A). The document Mark-‘A’ is a one page attendance register reiterating all the facts mentioned in the claim statement and demand notice.

7. During the course of cross-examination, workman admitted that he has worked in Public Health Department as daily paid worker. The wages were paid by the Junior Engineer and there is a clear denial that the workman was employee of the contractor. Other witnesses, examined by the workman were Satbir Singh Warder belt No. 1635 O/o District Jail, Bhiwani and Sh. Chand Ram, who



appeared as WW1 and WW2 respectively and submitted their affidavits and brought the **summoned record** i.e. copy of letter dated 01.09.2014 (Ex. W3), copy of dispatch register (Ex. W4), Copies of register No.16 (containing 1 to 237 pages).

8. The witness of the Management, namely, Sh. Bani Singh, Work Supervisor produced the official record, but he only brought the log book for the period from 01.08.2011 to 30.09.2014, which was maintained by the Department for running the Booster situated in District Jail, Bhiwani. He also stated that the attendance and payment of wages register pertaining to workman and other employees working on booster in District Jail, Bhiwani for the period from 01.08.2011 to 30.09.2014 are not available in the office of Management.

9. The record of daily wage worker i.e. Key Man, Motor Operator, Pump Operator etc. from 01.08.2011 onwards alongwith their initial date of engagement, seniority list of daily wages workers and letter dated 01.09.2014 written by the Superintendent, District Jail Bhiwani to XEN, P.H. Division No.2, Bhiwani was also not produced. The witness gave the excuse that it was not provided to him by the officials.

10. Broadly, the plea is taken that around 125 workers were appointed through contract, but the finding recorded by the learned Labour Court is that except of placing on record the list of the



workers, no other material has been placed on record. Therefore, the stand taken by the Management is not found reliable, rather same is held to be devoid of merit.

In this regard findings recorded by learned Tribunal in paragraph No.15 is reproduced here below:

“15. The plea taken by the respondents that the petitioner was appointed through contractor is meritless. Reason for the same is that regarding appointment of the petitioner through contractor only one document has been placed upon the file by the respondents i.e. Ex.MX (certificate for enlistment of contractor). Further plea that the petitioner was appointed through different contractors namely S/Sh. Nanveet Khemka Contractor, Narender Kumar contractor and Anil Kumar contractor respectively. But this plea is also meritless as no document has been placed upon record by the respondents by which it could be said that the petitioner was got appointed through above said contractors.”

Thus learned Labour Court clearly held that the termination is illegal and same is in violation of provisions of Section 25-F of the Act of 1947.

11. However, plea of the workman that other workers were appointed after his removal from service, has been discarded by the Labour Court because of lack of evidence.

12. Taking into consideration the detailed reasons assigned in the award by which termination order has been held as illegal, this Court does not find any substantial reason for disturbing the said findings recorded by learned Labour Court. Therefore award of reinstatement with continuity of service; and all other consequential

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benefits; is hereby maintained and the present writ petition is hereby

dismissed.

15.05.2024
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[SANJAY VASHISTH]
JUDGE

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no