

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24890-2015 (O/M)

Date of decision : 04.01.2024

Prem Singh

..... Petitioner (s)

Versus

The Managing Director, M/s Team Lease Services Limited and others

..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Vijay Pal, Advocate for
Mr. Akash Lather, Advocate
for the petitioner.

Mr. Laxman Choudhary, Advocate for
Mr. Raje Ram Kaushik, Advocate
for respondent No. 1.

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HARSH BUNGER, J.

1. Petitioner (Prem Singh) has filed the instant Civil Writ Petition under Articles 226/227 of the Constitution of India, seeking writ in the nature of certiorari for setting aside the Award dated 04.06.2015 (Annexure P-1), passed by respondent No. 3-Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar (hereinafter referred to as 'Tribunal below'), whereby the reference of industrial dispute regarding termination of services of the petitioner was answered against him.

2. Briefly, the petitioner raised an industrial dispute regarding termination of his services. In the claim statement, the petitioner pleaded that he was appointed as a Technician after being selected by duly constituted

committee and due procedure for appointment was followed. He claimed that he was drawing a sum of Rs. 7,000/- as his wages and provident fund was also deducted from his wages. The petitioner claimed that he worked without any break and he performed his duties to the satisfaction of officials of respondent No. 1-M/s Team Lease Services Limited (hereinafter referred to as 'respondent-Management'). The petitioner claimed that he was employed as a Technician on 01.09.2012 and in June, 2013, the Supervisor, namely, Mr. Vinod Saini asked him to resign from his post, which was refused by him and thereafter, said supervisor in order to harass the petitioner gave a false information regarding work of the petitioner and arranged to issue a warning letter dated 29.07.2013 while alleging that petitioner was involved in diesel theft and tampering of equipments. As per the petitioner, he had duly replied to the said warning letter dated 29.07.2013, wherein he cleared his position that he was never involved in diesel theft and tampering of equipments and the matter was sorted out. The petitioner alleged that he was being harassed by the said supervisor Vinod Saini, who was demanding resignation from the petitioner and warned that if the petitioner will not resign, he will be terminated. The petitioner claimed that the aforesaid facts were brought to the notice of Cluster Incharge, namely, Mr. Avtar Singh, who had ensured the petitioner that nothing wrong would be done with him. The petitioner claimed that on 16.09.2013, he received a letter, according to which he was terminated from service. Accordingly, petitioner claimed that termination of his services was illegal and against the provisions of Industrial Disputes Act, 1947 (hereinafter referred to as '1947 Act') as he had worked for more

than 240 days in a calendar year from the date preceding his termination and neither any chargesheet nor any enquiry was conducted before terminating his services. Even retrenchment compensation was neither offered nor paid. It was stated that the post, on which the petitioner was working, was permanent in nature and respondent-Management had adopted unfair labour practice while terminating his services. Accordingly, prayer for reinstatement in service and consequential benefits was made.

3. The aforesaid claim of petitioner was contested by respondent-Management on the plea that the petitioner was appointed for a fixed period of one year and after expiry of term, he was validly discharged from the services after payment of his dues. The allegations of harassment made by petitioner were denied. It was also denied that the warning letter dated 29.07.2013 was issued malafidely and it was maintained that the petitioner was found pilfering diesel at the work place during work hours and he was caught by the supervising authority. It was categorically stated that petitioner was duly informed on 01.09.2013 that due to expiry of work contract, he has been discharged from services, but when petitioner did not settle his accounts in full and final then the decision was communicated to petitioner vide letter dated 05.09.2013 and thereafter, he raised the industrial dispute. It is the case of respondent-Management that petitioner had only worked for one year that too on fixed term basis and no other due was payable to the petitioner. Accordingly, prayer for dismissal of claim statement was made.

4. From the pleadings of the parties, the issues were framed and the

parties led their respective evidence.

5. Upon considering the material/evidence available on record, the Tribunal below, vide award dated 04.06.2015 (Annexure P-1), rejected the claim of the petitioner.

6. In the aforementioned circumstances, the petitioner has filed the instant writ petition before this Court.

7. I have heard learned counsel for respective parties and have perused the paperbook with their able assistance.

8. The Tribunal below, vide impugned award dated 04.06.2015 (Annexure P-1), has returned the following findings :-

"18. From the evidence on the file, the claim of the petitioner that he was not appointed for a fixed period is not proved rather from the evidence on the file it is proved that the petitioner was employed by the respondent w.e.f. 1.9.2012 for a fixed period of one year and the claimant was engaged as a contractual employee for one year by the respondent No. 2 and every facility permissible under law was given to the petitioner including the facilities of ESI, PF, Wage slip and minimum wages etc. The factum of lease period from 1.9.2012 to till termination of order has been admitted by petitioner himself in his cross-examination. The version of the petitioner that the respondent has not cleared his dues is further falsified by the own admission of the petitioner, as he has specifically admitted in his cross-examination that he has drawn his last salary of August, 2013. Admittedly, the respondent No. 2 is providing manpower to several companies and thousands of employees are employed by Respondent

No. 2, not only that the petitioner was also found indulged in unlawful activities of pilferage of diesel at the work site on 29.7.2013 and it is the respondent no. 2 who did not take any harsh step at once. As such the respondent No. 2 was not in a position to enter into a fresh contract of service with the petitioner and it is only after the completion of contractual service of the petitioner the respondent has ended the contract and same was informed to him vide letter dated 5.9.2013. Accordingly, there is no illegal action on the part of the Respondent No. 2.

19. Since the petitioner has failed to prove that he was not appointed for a period of one year with the respondent at any point of time, the question of provisions contained under Section 25-F of the Act does not arise. This issue is therefore, decided against the petitioner.

Relief:-

20. For the reasons discussed hereinbefore, the petitioner has not been found entitled to any relief and, therefore, reference made to this court stands decided accordingly against the petitioner and in favour of the respondent/management.”

9. During the course of arguments, learned counsel for petitioner has not disputed the fact that in terms of Annexure P-2, the petitioner was engaged on contract basis for 12 months from 01.09.2012 till 31.08.2013, however, the main thrust of argument of the petitioner is that the termination letter (Annexure P-3), discharging the petitioner from services, is stigmatic in nature and without holding any enquiry, the said letter could not have been issued.

10. Here, it would be apposite to refer to the letter (Annexure P-3), whereby the petitioner was discharged from services, which reads as under :-

*“TEAM LEASE
Putting India to Work.*

To

*Mr. Prem Singh,
E. Code-589920
E-20, New Model Town,
Hisar-125005.*

Re: Discharge from service.

Dear Prem,

You are an employee of Teamlease Services Pvt. Ltd. Bearing Employee Code No. 589920 and have joined the services of company by virtue of your appointment letter dated 1.9.2012 till currently.

However, we regret to inform you that it has been reported against you that you were involved in Intentional Site capturing and break down and had shut down the site under the influence of alcohol. It has also been noted that you had indulged in misappropriation of Diesel provided by the company for running the site. Such Act of yours constitutes major misdemeanor on your part and is subversive of organization discipline, thereby violating company policy and procedure.

You have acted in a manner which is absolutely unprofessional and unethical thereby amounting to gross violation of your terms of employment, as a result of which you are liable for severe disciplinary action including dismissal from service.

In the light of the above facts and circumstances, such acts of misconduct are absolutely unlawful,

unwarranted and uncalled for thereby amounting to violation of company policies and procedures, as a result which your services with the company is hereby terminated with effect from 5.9.2013.

For Team Lease Services Pvt. Ltd.

Yours sincerely,

Sd/-

Amitava Ghosh

Sr. Vice President-Regulatory.”

11. A bare perusal of the aforesaid letter would show that various charges have been levelled against the petitioner suggesting major misdemeanors on the part of the petitioner and further that the petitioner has acted in absolutely unprofessional and unethical manner, for which petitioner was liable for severe disciplinary action including dismissal from service. Concededly, no enquiry has been initiated/held against the peittioner. In case the services of petitioner were to be dispensed with solely upon expiry of contract period, as sought to be contended by respondent-Management in its stand before the Tribunal below, in those circumstances, the aforesaid charges/allegations would not have been mentioned in the letter (Annexure P-3), whereby the petitioner is stated to have been discharged from service. In my considered view, the contents of aforesaid letter (Annexure P-3) are clearly stigmatic having material bearing on the future prospects of job of petitioner herein. Since before issuing the said letter (Annexure P-3) containing various charges/allegations, no enquiry has been held, accordingly, such charges/allegations contained in letter (Annexure P-3) cannot be sustained in the eyes of law.

12. Since the engagement of petitioner was purely on contract basis for a specified period and the said contract having been expired, accordingly, the case of the petitioner would be covered under Section 2 (oo) (bb) of 1947 Act and the Tribunal below has rightly held that question of provisions of Section 25-F of 1947 Act does not arise. Therefore, while holding that the Tribunal below has rightly denied relief to petitioner on account of the fact that his engagement was contractual, however, since the discharge letter (Annexure P-3) was issued to petitioner by levelling various charges/allegations therein, the same was unjustified, as indicated above. Accordingly, petitioner is entitled to be compensated. In my considered view, interest of justice would be met if petitioner is granted compensation of Rs. 1,00,000/- and Rs. 50,000/- as litigation expenses, to be paid by respondent No. 1. The aforesaid payments of compensation amount and litigation expenses be made within a period of three months from today, failing which the same shall carry 6% per annum interest till time such payment is not made.

13. The instant writ petition is disposed of in the aforestated terms.

14. All pending application(s), if any, shall stand closed.

(HARSH BUNGER)
JUDGE

04.01.2024
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No