

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

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CWP-28210-2013
Date of Decision : 30.09.2024

DAYA KISHAN
V/S
.... PETITIONER

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, HISAR AND ANR

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Sansar Kundu, Advocate
for the petitioner.

Mr. Lekh Raj Sharma, Advocate
for respondent No.2.

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 15.01.2013 (Annexure P-3) whereby Labor Court has answered the reference against him.
- 2 The petitioner claims that he joined respondent on 12.05.2002 and worked till 31.10.2006. He was retrenched without complying with provisions of Sections 25B and 25F of Industrial Disputes Act, 1942 (for short 'ID Act'). He preferred an application before labour authorities and the matter came to be referred to Labour Court which vide impugned order has dismissed his claim on the ground



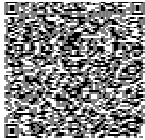
that he has failed to prove that he has worked for 240 days during preceding 12 months.

4. Mr.Sansar Kundu submits that the Labour Court has failed to appreciate that sons of the petitioner are minor, thus, their attendance cannot be considered. It was actually petitioner who had worked with respondent. The impugned award deserves to be set aside.

5. Per contra, Mr. Sharma submits that the petitioner has failed to prove service of 240 days during preceding 12 months, thus, he was not entitled to protection granted by Section 25B read with Section 25F of ID Act.

6. I have heard the arguments of counsel for the parties and perused the record.

7. From the perusal of record, it is evident that as per record of respondent, the petitioner as well as his sons worked with respondent on daily wage basis. There was no regular appointment. They were never issued appointment letter. The petitioner is claiming that his sons are minor. The engagement of minor children may be an offence but it does not mean that the day on which sons had worked, those days can be counted in the service of petitioner. There is nothing on record disclosing that it was petitioner who had actually worked and attendance of children was marked. It is highly improbable that respondent marked presence of children of petitioner. In the absence of any evidence disclosing that the petitioner had actually worked for 240 days during preceding 12 months, he cannot be made eligible to retrenchment compensation contemplated under Section 25F of ID Act.



8. In the wake of above facts and findings, this Court is of the considered opinion that the present petition is devoid of merit, thus, deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

30.09.2024
anju

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