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**118 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-32130-2024**Date of decision: 28.11.2024****CHHATTAR PRASAD PANDEY****...PETITIONER****VERSUS****M/S PRIYANKA GARMENTS AND ANR.****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Ashwani Bakshi, Advocate
for the petitioner.

JAGMOHAN BANSAL ,J. (ORAL)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of award dated 06.09.2022 (Annexure P-8), whereby the Labour Court has answered the reference against him.

2. The petitioner claims that he joined M/s Astra Fashions Pvt. Ltd, IMT, Manesar, Gurugram as workmen in March, 2011. He worked till November' 2018. He was forced to resign in November' 2018. He served demand notice in December' 2018 seeking reinstatement with consequential benefits. The Assistant Labour Court advised him to file claim statement before Labour Court. He filed claim before Labour Court. The respondent did not appear and Labour Court proceeded *ex-parte*.

3. Mr. Ashwani Bakshi, Advocate for the petitioner submits that Labour Court has wrongly rejected the claim of the petitioner. The strict rules of Evidence Act and Civil Procedure Code are not applicable to proceedings before Labour Court because it is a quasi-judicial authority and acts as a Tribunal. The



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petitioner was not claiming that he should be extended benefit of Section 25F Industrial Disputes Act, 1947 (for short 'ID Act') because he was terminated.

3. I have heard the argument of learned counsel for the petitioner and perused the record.

4. The Labour Court has recorded categoric findings to the effect that the petitioner submitted photocopies of the documents. Neither original documents were produced nor any attempt was made to prove the said documents. The documents are disclosing that petitioner had worked till February' 2013 whereas he is claiming he had worked till November' 2018. There is no evidence of work from March' 2013 to November' 2018. Thus, the petitioner has failed to prove employer- employee relation and service of 240 days during 12 months preceding the date of his alleged termination. The relevant extracts of findings recorded by Labour Court are reproduced as under:

" xxx xxx xxx xxx

6. Having knocked the doors of Court, it was incumbent upon the claimant to prove that he was appointed as workman in Production Department by respondent however, the verbal statement made by the claimant (PW-1) has not been corroborated by any documentary evidence like Appointment Letter, Attendance Record and payment of salary to the claimant by respondent. Suffice it to say that except the self serving statement made by claimant (PW-1), there is no iota of documentary evidence on record that there existed relationship of employee and employer between the parties.

7. Feeling tight, learned AR for the claimant contended that from documents Ex.PW-1/5 to Ex.PW-1/8 i.e. copy of salary slips as well as Ex.PW1/10 i.e. copy of Identity Card, it stood proved that the claimant was employee of respondent. He added that the case pleaded by claimant as well as



evidence led by him remained un rebutted and unchallenged. According to him, mere fact that respondent opted not to contest the case is sufficient to allow the claim statement.

8. *It is important to note here that documents Ex.PW-1/5 to Ex.PW-1/8 are photocopies of four salary slips whereas Ex.PW1/10 is photocopy of Identity Card allegedly issued by respondent. It is well settled that mere exhibition of a document does not dispense with proof thereof. No efforts were made by claimant to prove the said documents and as such, they cannot be read into evidence. So much so that the claimant has not placed on record even the original salary slips and Identity Card allegedly issued to him by the respondent. Even if, for the sake of arguments, said salary slips and Identity Card are taken into consideration, at the most, it can be taken that respondent had issued Identity Card in the year 2011 and paid salary to the claimant in March 2011, November 2011, December 2011 and February 2013. To put it otherwise, said documents show that claimant was employee of respondent till February 2013. The specific plea taken by claimant is that he had served till 28.11.2018. No cogent and positive evidence has been led by claimant to establish that he had worked for respondent in the last calendar year preceding the date of his alleged termination on 28.11.2018 so as to prove his entitlement for the protection of the Act.*

9. *Then, it is well settled that a party, which has knocked the doors of the Court, has to stand on its own legs and its case cannot be allowed merely on the ground that the opposite party opted not to contest the same. Suffice it to say that the contentions raised on behalf of claimant are not sustainable. In the absence of evidence that the respondent had ever engaged the claimant, no relief can be granted to the latter.*



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10. *Apart from above, as per claimant, he had served the respondent from March 2011 to 28.11.2018. Meaning thereby that he had completed continuous service of 240 days during a period of twelve calendar months during 29.11.2017 to 28.11.2018 i.e. preceding the date of his alleged termination on 28.11.2018. It was entirely upon the claimant to prove the fulfilment of the pre-requisite condition of completion of his continuous service of 240 days as an employee of the respondent as envisaged under Section 25-B of the Act, so as to claim the benefit and protection under Section 25-F of the Act.*

5. This Court does not find any jurisdictional error or factual infirmity in the impugned order. The scope of interference under Article 226 of the Constitution of India especially while issuing writ of certiorari is very limited. This Court cannot re-appreciate evidence led before Labour Court. This Court cannot further substitute opinion of Labour Court unless and until there is misreading of evidence or evidence led by parties are not appreciated or there is miscarriage of justice.

6. In view of above, the present petition is dismissed.

28.11.2024

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(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No