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

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Decided on : 11.01.2024

The Muktsar Central Cooperative Bank Ltd.

. . . Petitioner(s)

Versus

Presiding Officer, Industrial Tribunal,
Bathinda and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Ashwani Prashar, Advocate
for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

1. Present writ petition has been directed by the petitioner – the Muktsar Central Cooperative Bank Limited, Sri Muktsar Sahib (Management), challenging the award dated 13.09.2023, passed by the Presiding Officer, Industrial Tribunal, Bathinda (for brevity, ‘Ld. Tribunal’), and reference No.25/2015, whereby, application under Section 33C (2) of the Industrial Disputes Act, 1947 (in short, ‘ID Act’), has been allowed, in favour of respondent No.2 (workman) – Gurbaj Singh.

2. The brief facts of the case are that Gurbaj Singh (respondent No.2 herein) was working as Computer Data Entry Operator with the petitioner – Management, since May, 2008. His last posting place was at Panni Wala Branch, and at that time, he was drawing a salary of Rs.5,000/- per month. On 01.07.2014, without serving any notice/charge-sheet, inquiry or compensation, Management terminated him from the services. Thus, workman claimed that while working continuously with the Management from 01.05.2008 to 30.06.2014, in the last calendar year, he had completed

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more than 240 working days, with the Management. It is further claimed that other workers, who are junior to him i.e. Rajbir Singh, is working in Branch – Killian Wali, Anil Kumar is working in the main Branch – Sri Muktsar Sahib, Baljinder Kaur is working at head office, Bhupinder Kaur is working in the main Branch – Sri Muktsar Sahib, and Veena Rani is working in the evening Branch – Sri Muktsar Sahib.

Also pleaded that workman Malkit Singh and Hardeep Singh, who were appointed on DC rates, have also been regularized. Even after the termination of the workman, Management has appointed new person in the service in place of the workman. Therefore, workman claimed that his termination is against the principles of natural justice, and as per the provisions of the ID Act, and he is entitled to reinstatement with continuity of service with full back wages.

3. On being served, Management appeared and raised an objection that in the absence of raising any demand before the employer, the claim is not maintainable. The workman was appointed orally on contractual basis to complete the miscellaneous work on DC rates.

It is further pleaded that the workman was deployed at the Muktsar Central Cooperative Bank Ltd., by the petitioner-Management, to work on DC rates as per the requirement of the work. Neither, the appointment was as per the Rules, nor the working period of 240 days is complete, in the last calendar year.

This way, the stand of the respondent (Management) is that the workman was engaged to complete the miscellaneous work on DC rates, from time to time and he has not completed the 240 days working period in the previous calendar year.

4. After granting opportunity for leading evidence to both the sides, learned Tribunal observed that though, there is no appointment letter with the workman, but silence of the respondent(s) with regard to the specific date, mentioned by the workman regarding the entry into the service, proves a lot that the Management has nothing substantial to deny the stand of the workman. Rather, the witness appearing on behalf of the Management, deposed material circumstances regarding the working of the workman with the Management. In this regard, there is a specific finding recorded by learned Tribunal, and relevant part of which is, reproduced as under:-

“..... Though there is no appointment letter with regard to entry of the workman into service, but silence of the respondents with regard to specific date mentioned by the workman regarding his entry into service proved that the respondents have nothing to say about the entry into service by the workman. Moreover from the evidence, it is proved that the workman had completed 240 days continuous service in the last year prior to his termination. MW-1 admitted in his cross-examination that the workman worked under him from July, 2013 to April, 2014 in his further cross-examination this witness has again admitted that the workman had worked with his Branch from September, 2012 to 30.06.2014. The claim of the workman that he was lastly posted at Branch Panni Wala and this witness MW-1 is also from the same Branch. The witness has further admitted in his cross-examination that the workman had come from another Branch, though there was no order with regard to same. The witness has further admitted that the bill salary of the workman used to be sent by the Head Office and they used to make payment of salary to the workman as per DC rates. The witness has further admitted that services of the workman were terminated by the Head Office. Therefore the facts with regard to continuous service of 240 days in the last calendar year is proved on record and it is also proved that the workman was appointed by the respondents on the post of Data Entry Operator on the salary to be paid as per DC rates. The termination of service of the workman is an admitted fact, but the same is alleged to be non availability of work

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with respondents. However this reason to terminate the services does not seem to be justified, as the witness of the respondents, MW-1 admitted in his cross-examination that the work of the Data Operator is still going on in their department. This witness has further pleaded his ignorance about the fact claimed by the workman that junior than him are still in service and he further pleaded ignorance about vacant post of the Data Operator lying in their department. From the cross-examination, this witness it is proved that the services of the data operator were required, but the respondents department terminated the service of the workman without any notice, charge-sheet, enquiry and payment of compensation as required under the provisions of Industrial Disputes Act. It is also not proved by the respondents department that the workman was appointed for some specific work or project. Had the workman been appointed as such, the case would have been different. Therefore it is proved that the workman had completed 240 days continuous service prior to termination of his service, therefore the termination of his services done by the respondents department is not legal and justified.”

5. On being convinced with the reasoning given by learned Tribunal, this Court does not find any substantial reason to interfere with the same. Moreover, provisions of the beneficial legislation of the ID Act, cannot be allowed to be mishandled by the Management, against the aims & object of the legislation also.

6. Accordingly, present writ petition stands **dismissed**. Impugned award dated 13.09.2023 (Annexure P-3) is maintained.

(SANJAY VASHISTH)
JUDGE

January 11, 2024

J.Ram

Whether speaking/reasoned: ✓ Yes/~~No~~

Whether Reportable: ✓ Yes/~~No~~