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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-3611-CWP-2025 in/and
CWP-15238-2002 (O&M)
Date of Decision : 17-03-2025

SHRI RAJBIR

.....Petitioner

VERSUS

PRESIDING OFFICER, LABOUR COURT-I, FARIDABAD

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Mansi, Advocate and
Mr. Bhisham Kumar Majoka, Advocate
for the petitioner.

Ms. Ruchita Garg, Advocate for
Mr. Vishal Garg, Advocate
For the respondent No.2
(joined through V.C.)

HARSIMRAN SINGH SETHI, J. (Oral)

CM-3611-CWP-2025

1. This application has been filed for listing of the main petition for some actual date of hearing.
2. Ms. Ruchita Garg, Advocate for Mr. Vishal Garg, Advocate for respondent No.2 states that she has no objection to this course of action. For the reasons recorded, the application is allowed.
3. Main case is taken up for hearing today itself.

CWP-15238-2002 (O&M)

4. In the present petition, the challenge is to the award dated 09.07.2002, copy of which has been appended as Annexure P-10 on the ground that the Labour Court has wrongly concluded that the petitioner has not completed 240 days of service in a whole year prior to his termination whereas, the petitioner asserts that the period for which the petitioner worked in December, 1994 has not been taken into account while counting his total days of service and no such record was produced by the respondent hence, adverse inference qua his time in service in the month of December, 1994 should have been taken by the Labour Court so as to grant the benefit to the petitioner.

5. Ms. Ruchita Garg, Advocate for Mr. Vishal Garg, Advocate appear on behalf of the respondents and submit that all the record pertaining to the service of the petitioner was brought on record and it was proved in the proceeding before the Labour Court that the petitioner has only worked for 193 days upto to 31.07.1995, when the alleged termination took place hence, the ground being taken by the petitioner that all the record qua his time in service was not produced, is incorrect so as to derive adverse inference to grant the benefit to the petitioner.

6. I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

7. The only question which has surfaced in the present case for consideration is that while the petitioner asserts that he has completed 240 days in service in a whole year so as to get the benefit of provisions of the Industrial Disputes Act, 1947 especially of Section 25F as, while terminating the services of the petitioner, the retrenchment compensation was not paid to

him by the respondent and on the other hand a concrete finding has been recorded by the Labour Court in its impugned order on the basis of the record putforth before it that the petitioner has only worked for 193 days in service in his total tenure.

8. The question of adverse inference in favour of the petitioner does not arise as, the onus is upon the petitioner to prove that he was working in the service even in the month of December, 1994. As the petitioner failed to bring on record any concrete evidence that he has worked till December, 1994, no benefit qua the said month so as to add the days of that month in total days of service rendered by the petitioner can be given to the petitioner. Even otherwise, if the benefit of 31 days of December, 1994 is given to the petitioner, the petitioner still does not complete 240 days in service in a whole year as by adding 31 days to 193 days, the petitioner still lacks completion of the required 240 days in service in whole year.

9. Learned counsel for the petitioner has not been able to rebut the same.

10. No perversity has been shown in the award of the Labour Court.

11. No ground is made out for any interference by this Court in the facts and circumstances of the present case.

12. Pending application, if any, also stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

17-03-2025
Sapna Goyal

NOTE: Whether speaking: YES
Whether reportable: NO