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

(225)

CWP-18016-1997

Date of Decision : March 04, 2025

Bal Krishan (deceased) through LRs

.. Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum- Labour Court, Panipat
and another**

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. D.R. Bansal, Advocate, for the petitioner.

Mr. Saurabh Girdhar, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the Award dated 30.04.1996 (Annexure P-10) passed by the Labour Court wherein, it has been categorically held that as the petitioner has not worked for a total of 240 days in the preceding 12 months prior to the date of termination and therefore, no benefit of Section 25-F of the Industrial Disputes Act, 1947 can be extended to the petitioner so as to treat the termination of the petitioner by respondent in violation of the provisions of the Industrial Disputes Act, 1947.

2. Learned counsel for the petitioner submits that the petitioner was a Class-IV employee and his total record of service was not brought before the Tribunal so as to record the correct finding while passing the impugned Award.



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3. Learned counsel for the petitioner further submits that as per the service book, which has been given to the petitioner as the petitioner was again appointed in the year 1998 vide order dated 05.11.1998 (Annexure P-13) till he ultimately retired, the details regarding the number of days the petitioner rendered his service was mentioned in the service book, which clearly shows that he had worked for 240 days in preceding 12 months prior to when his services were terminated in the year 1992 hence, the respondents withheld the actual record of service rendered by the petitioner from the Tribunal which led to the incorrect finding.

4. Learned counsel for the respondents submits that the service book which is now being produced was not examined during the proceedings before the Tribunal and the authenticity of the same is yet to be established.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. Once, the petitioner has brought on record his service book which has been maintained by the respondents according to which, the petitioner continuously worked from the year 1987 onwards and even for the year 1991, he had served for that complete year, thus, the Tribunal while recording the finding that the petitioner had worked only for a total of 52 days in the 12 months prior to the date of the termination, was only due to the fact that the total record of petitioner's period of service was not produced before the Tribunal. Service book attached has gone un-rebutted.

7. Learned counsel for the respondents has not been able to dispute the said fact with regard to the findings recorded in the service book



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and the details of the working recorded therein qua 12 months preceding May, 1992, i.e. when service of the petitioner was terminated.

8. The petitioner has worked for more than 240 days as for each month starting from May 1991 till May 1992 he has worked for 26 days in all the months which brings the total to more than 240 days. That being so, the findings of the Tribunal were only given as the relevant record stipulating the petitioner's period of service was withheld by the respondents.

9. Keeping in view the fact that the workman has already passed away and after the passing of the impugned Award, he was again reinstated in service in the year 1998 vide order dated 05.11.1998 (Annexure P-13) from whereon he then worked upto the date of his retirement, thus, the benefit which needs to be given to the workman is, that the termination order passed in May, 1992 is declared to be illegal.

10. Keeping in view the above mentioned aspects, The petitioner will be treated in service with continuity from the date of the initial appointment i.e. from the year 1987. However, the petitioner will not be entitled for any back wages for the said period when he remained out of service but the period starting from 1987 till the date of retirement will be treated as 'qualifying service' so as to compute the pensionary benefits admissible to the petitioner.

11. Let the pensionary benefits of the petitioner be computed again by treating the total length of service starting from the year 1987 till the date of retirement as 'qualifying service' and whatever benefit comes to the share of the petitioner on the said fact, be computed and the same be paid

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after deducting the retiral dues already paid to the petitioner. Let the dues be paid to the legal heirs of the petitioner as the petitioner has already unfortunately died as of now. Let the order be complied with within a period of eight weeks from the date of receipt of copy of this order.

12. The present writ petition is allowed in above terms.

March 04, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No