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

CWP-1594-2001 (O&M)

Date of Decision : 01-05-2025

LAKSHMAN DASS**.....Petitioner****VERSUS****EXECUTIVE ENGINEER AND ORS.****.....Respondent(s)****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Aditya Yadav, Advocate
for the petitioner.

Mr. Praveen Chander Goyal, Advocate
for the respondent Nos.1 and 2.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the award dated 02.12.1999, passed by the Labour Court, copy of which has been appended as Annexure P-10 by which, the grievance of the petitioner that his services have been terminated in violation of the provisions of Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as 1947 Act), has not been accepted and his claim for reinstatement, continuity of service along with backwages, has been declined.

2. Learned counsel for the petitioner argues that the service of the petitioner-Workman was terminated on 01.06.1996. As per the petitioner-Workman, he had continuously worked for more than 240 days in the 12 months preceeding prior to the said date of termination.

3. Learned counsel for the petitioner submits that the petitioner-Workman was asked to mark presence in the muster roll not against his own

name i.e. Lakshman Dass but on different names, which was being done by the petitioner.

4. Learned counsel for the petitioner submits that keeping in view the fact that the petitioner-Workman had marked presence against different names, he had completed 240 days in preceding 12 months prior to 01.06.1996 hence, the said fact has not been appreciated by the Labour Court in the correct perspective hence, the said award dated 02.12.1999 (Annexure P-10) may kindly be set aside and directions be issued to the respondent-Department to reinstate the petitioner along with all consequential benefits.

5. Learned counsel for the respondents submits that once, keeping in view the facts and the evidence which has been brought on record, the working of petitioner-Workman for 240 days in the preceding 12 months prior to 01.06.1996 has not been proved by the petitioner-Workman hence, the order dated 02.12.1999 (Annexure P-10) passed by the Labour Court is perfectly valid and legal and the same may kindly be upheld.

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

7. As per the settled principle of law, the onus as to prove working of the petitioner-Workman for 240 days in the preceding 12 months is on the petitioner-Workman. In the present case, the said onus has not been discharged by the petitioner-Workman.

8. The only argument which has been raised by the learned counsel for the petitioner that the petitioner-Workman had worked to 240 days in the preceding 12 months prior to 01.06.1996 but his attendance was marked against different names in the muster rolls and not against his own

real name. The said fact has not been proved by the learned counsel for the petitioner-Workman by leading any cogent evidence. The record which was summoned proved that the petitioner-Workman had worked only for a period of 3 months out of the total 12 months preceding 01.06.1996.

9. That being so, the petitioner-Workman had not completed 240 days starting from 01.06.1995 till 01.05.1996.

10. As per the provisions of Section 25F of the Industrial Disputes Act, 1947, an employee can only claim retrenchment only in case, he/she has worked for 240 days in the preceding 12 months prior to his /her termination so as to be entitled for the retrenchment compensation. The facts shows that the said onus for working for 240 days has not been discharged by the petitioner-Workman and no cogent evidence has been placed on record to hold that the petitioner-Workman was in employment for 240 days in the preceding 12 months prior to 01.06.1996.

11. The impugned award dated 02.12.1999 (Annexure P-10) passed by the Labour Court can only be interfered in case, the same is proved to be perverse either to the facts or to the evidence on record.

12. The petitioner has not been able to prove the same.

13. Keeping in view the above, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

14. Present petition stands dismissed.

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

01-05-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO