



CWP-2700-2001

1

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

(213)

CWP-2700-2001

Date of Decision : 29.08.2025

Sadhu Ram

...Petitioner

Versus

Presiding Officer, Labour Court cum
Industrial Tribunal, Hisar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Deepak Jindal, Advocate
for the petitioner.

Mr. Bhupender Singh, Advocate
for respondents No.2 and 3.

KULDEEP TIWARI, J.(ORAL)

1. The reference on the claim petition, as filed by the petitioner/workman was answered against him, vide impugned award dated 18.08.2000 (Annexure P-6), passed by the learned Industrial Tribunal cum Labour Court, Hisar (hereinafter referred to as 'the learned Tribunal'), primarily on the ground, that the petitioner/workman has failed to establish that he has worked continuously for a period of 240 days in the preceding year, from the date of termination of his services.

2. Learned counsel for the petitioner, has made an attempt to throw challenge to the award (supra), on the ground, that despite a specific application dated 08.09.1999 (Annexure P-5) filed by the petitioner for production of muster roll of relevant period, i.e. 05.12.1992 to 07.12.1993 and 01.01.1994 to 04.09.1996. However, no such record was produced by the respondent/Management, therefore, the adverse inference ought to have been



CWP-2700-2001

2

taken by the learned Tribunal concerned, which unfortunately has not been taken. To lend vigour to his arguments, he has relied upon the judgment passed by this Court in ***CWP-18671-2008***, titled '***The Engineer-in-Chief, Public Health Department, Haryana, Chandigarh, and another versus Anil Kumar and another***', decided on 06.05.2009 (*Law Finder Doc ID 195854*).

3. Learned counsel for the petitioner further submits that the petitioner has also stepped into the witness box, in order to establish his claim, despite he being put to lengthy cross-examination, the respondent/Management, has failed to impeach his credibility. This aspect has not been appreciated in its right perspective by the learned Tribunal concerned, and therefore, the impugned award requires interference of this Court. He has also tried to establish before this Court, that in case, the asked for muster roll was allowed to be brought on record, the workman would have been able to establish that he has worked for 240 days, continuously in the preceding year.

4. Learned Tribunal has acted as a Civil Court, and has put the entire onus upon the petitioner/workman, whereas, in the industrial dispute, the workman is only to establish his case, through the available means, as the record is ordinarily remain in the custody of the Management. He further draws the attention of this Court, towards Mark-A and B (which are not part of the record of the learned Tribunal), to buttress his arguments that this would also establish to the effect that the petitioner was efficient in working and he was duly recommended by the higher authorities concerned.

5. On the other hand, Mr. Bhupender Singh, learned counsel representing the respondents No.2 and 3, has vociferously opposed the submissions, as made by the learned counsel for the petitioner, and would

**CWP-2700-2001****3**

submit that it is a case of no evidence. He further submits that earlier the petitioner has filed an application for passing a direction upon the respondent/Management, for production of muster roll. However, the said application was dismissed, and the petitioner opted not to challenge the order thereof, and the said order has attained the finality, and therefore, now through the instant petition, he cannot raise the issue again. He also submits that the petitioner has miserably failed to establish that before the date of his termination, he has completed 240 days, in the preceding year. The next contention raised by the learned counsel for the respondent/Management, is that the petitioner, till date, has not been able to produce any diploma/certificate of typing or shorthand, through which, he can seek his re-instatement as a DPL Typist. Finally, he draws the attention of this Court, towards the cross-examination, wherein, the petitioner/workman has specifically admitted with regard to the fact that he does not possess such diploma or degree.

6. This Court has considered the rival submissions, as made by the learned counsel for the parties concerned, and has also perused the impugned award along with the available record.

7. This Court is of the considered opinion that there is no error or perversity in the impugned award, requiring any interference of this Court. First of all, the muster roll, which was brought on record, by the respondent/Management, would clearly reflect that the petitioner/workman was engaged as an unskilled labourer from 01.01.1994 to 23.01.1994 for 19 days, 01.03.1994 to 31.03.1994 for 26 days, 01.04.1994 to 30.04.1994 for 26 days, 01.09.1994 to 30.09.1994 for 26 days, and from 01.10.1994 to 30.10.1994 for 26 days. This reflects that the petitioner has worked only for a



CWP-2700-2001

4

short interval in the preceding year, and the total period of his work comes out to be of 136 days, from 15.12.1992 to 30.10.1994. This pattern of engagement reflects that the services of the petitioner/workman, were utilized only for a short interval, and that too as an unskilled labourer. Further, there is no evidence except the statement of the petitioner himself, who stepped into the witness box, to substantiate the claim, as raised in the claim petition. In fact, it is a case of no evidence, and in the absence of any cogent evidence, the Court, is not bound to take any adverse inference and to conclude that the petitioner has completed 240 days, in the preceding year. However, the initial onus is always upon the workman. The adverse inference cannot be stretched beyond a limit that the workman is not required to prove anything on record. In the instant case, when the application of the petitioner, wherethrough, he has sought production of muster roll for a particular period, was dismissed vide an interim order, he should have challenged the said order, at apt stage. However, he opted to remain silent on this issue. Therefore, the said order has already attained the finality. Further, in the claim petition, the petitioner has claimed that he was engaged as a DPL Typist, whereas, this fact is not disputed by the petitioner, even today, that he does not possess any diploma or degree, for that post.

8. Consequently, finding no merit in the instant petition, the same is hereby **dismissed**.

(KULDEEP TIWARI)
JUDGE

August 29, 2025

Manpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No