

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

State of Haryana through Executive Engineer .. Petitioner

Sanjay and another .. Respondents

None for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the Award dated 24.10.2000 (Annexure P-6) by which, the respondent No.1-workman was reinstated in service with continuity of service along with 60% back wages. Hence, it is the prayer of the petitioner that the impugned order dated 24.10.2000 (Annexure P-6) be kindly set aside.
2. Learned counsel for the petitioner argues that the benefit has been given to the respondent No.1-workman by the Labour Court on the ground that conditions stipulated under Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred as '1947 Act') has not been complied with the petitioner.
3. Learned counsel for the petitioner submits that without even noticing the facts that whether, the respondent No.1-workman had completed 240 days in the 12 months preceding the date of termination or

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not, the benefit envisaged under the 1947 Act has been granted to the respondent-workman by recording a finding that condition stipulated under Section 25-F of the 1947 Act has been violated though, the respondent No.1-workman never completed 240 days in service in a preceding year working with his employer, which fact is also clear from the record which has been produced before this Court by way of Annexure P-1 wherein, the total number of days that the respondent No.1-workman worked with the petitioner has been brought before the Court.

4. Learned counsel for the petitioner further submits that even as per the impugned Award passed by the Labour Court, the benefit to the respondent No.1-workman has been given to him without even substantiating the crucial aspect that as to how, in a preceding one year, 240 days had been completed by the respondent No.1-workman in service so as to make him eligible for the benefits envisaged under Section 25-F of the 1947 Act.

5. No one has appeared on behalf of the respondents.

6. I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

7. As per the facts which have come on record, the respondent No.1-workman joined on 02.12.1993 as a Beldar on daily wages basis and remained working till 17.10.1994. The Labour Court was required to ensure that he had completed 240 days working in service in the preceding 12 months. The respondent No.1-workman had worked only for a period of 10 months and as per the details given of the said 10 months, the respondent No.1-workman had only completed 200 days in total starting from the initial

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date of appointment for which he was also paid. The respondents have brought the voucher number and the date of payment also, which has gone un-rebutted.

8. It is the duty of the Labour Court to record finding as to whether, the respondent No.1-workman had completed the required 240 days in service by giving due notice to the facts and the evidence which been brought on record. The Labour Court cannot assume that once a workman has worked for 10 months, he/she should have completed 240 days.

9. In the present case, the benefit was granted to the respondent No.1-workman only on the basis of the assumption.

10. Further, Section 25-F of the 1947 Act will only be applicable in case an employee has completed 240 days in preceding 12 months to the termination of his/her services. In the present case, once an employee has not completed 240 days in service in a preceding year, no relief could have been granted to him on the ground that there is a violation of Section 25-F of the 1947 Act as the same will not be applicable.

11. Keeping in view the totality of the circumstances which have come on record, the Award dated 24.10.2000 (Annexure P-6) passed by the Labour Court is perverse to the facts of the present case and hence, cannot be sustained.

12. It may be noticed that while issuing notice of motion, the operation of the said Award dated 24.10.2000 (Annexure P-6) was stayed. The said impugned Award dated 24.10.2000 (Annexure P-6) is accordingly set aside.



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13. The present writ petition is allowed in above terms.
14. Civil miscellaneous application pending if any, also stands disposed of.

April 02, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No