



CWP No. 27557 of 2015 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(283)

CWP No. 27557 of 2015 (O&M)

Date of Decision : 24.07.2025

M/s Classic Engineering Works

...Petitioner

Versus

Ld. Presiding Officer, Industrial Tribunal-cum-Labour Court-II,
Gurgaon, District Gurgaon and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rakesh Dhiman, Advocate for the petitioner.

Mr. Amandeep Rana, Advocate for respondent No. 2.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the Award dated 09.05.2014 (Annexure P-4) passed by the Labour Court by which respondent No. 2-workman was directed to be reinstated in service with continuity and full back wages from the date of termination till the reinstatement.

2. Learned counsel for the petitioner argues that the impugned Award passed by the Labour Court is perverse as respondent No. 2-workman of his own will refused to join his duty in Himachal Pradesh where the Company had shifted whereas, the finding recorded by the Labour Court is that the services of respondent No. 2-workman has been terminated in violation of Section 25F of Industrial Disputes Act, 1947 (hereinafter

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referred to as '1947 Act') hence, the impugned Award dated 09.05.2014 (Annexure P-4) is liable to be set-aside.

3. Learned counsel for the petitioner submits that even if it is assumed for the sake of argument that the termination was bad, then also the benefit of full back wages could not have been granted and, therefore, the impugned Award needs to be modified on the said aspect as well.

4. Learned counsel appearing on behalf of respondent No. 2-workman submits that the finding which has been recorded by the Labour Court in the order impugned that the services of respondent No. 2-workman have been terminated in violation of Section 25F is correct as, the argument raised by the learned counsel for the petitioner that the Company had shifted to Himachal Pradesh is not correct as, the witness who appeared on behalf of the petitioner in the proceedings before the Labour Court, clearly stated that though, at one given point of time the Company was shifted to Himachal Pradesh but, the same again started working from Gurugram hence, the Court after examining all the evidence on record, came to the conclusion that it was a case of termination of services and not a case of absence from duty on part of the workman and that too in violation of the provisions of 1947 Act.

5. Learned counsel for respondent No. 2-workman further submits that during the period after his termination, the respondent No. 2-workman was working in the field for which work he was paid in kind apart from doing the daily wage job for which he was paid in monetary terms as and when he was able to secure the work and, therefore, the same cannot be

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treated as a gainful employment and the Award of the full back wages to respondent No. 2-workman is perfectly valid and legal.

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

7. The only argument to get the Award set-aside raised by the learned counsel for the petitioner is that the respondent No. 2-workman had abandoned the job by not joining the duties at Himachal Pradesh when the Company shifted there. The said issue has already been dealt with by the Labour Court while passing the impugned Award and recording a finding therein that the petitioner has failed to prove that present was a case of abandonment of job by respondent No. 2-workman and rather, the services of respondent No. 2-workman has been terminated in violation of Section 25F of 1947 Act, by giving due reason that the respondent No. 2-workman has refused to join the Industry at Himachal Pradesh.

8. Once, the said finding has been recorded by the Labour Court and nothing has been brought to the notice of this Court that the said finding is perverse either to the fact and evidence on record, this Court will not re-appreciate the facts so as to record a finding other than what has been recorded by Labour Court that there was an abandonment of job by the respondent No. 2-workman rather than termination of his services.

9. Further, it has already come on record that though, at one given point of time the Industry was shifted to Himachal Pradesh but the same was reverted back to Gurugram hence, termination of the services of the respondent No. 2-workman on the ground that he failed to join his duty, has rightly been appreciated by the Labour Court and the said argument raised

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by the petitioner-Corporation has not been accepted so as to grant the relief to respondent No. 2-workman hence, the Award dated 09.05.2014 (Annexure P-4) needs no interference at the hands of this Court qua the recording of the fact that the services of respondent No. 2-workman were terminated without following the provisions of Industrial Disputes Act, 1947 (hereinafter referred to as '1947 Act').

10. The last argument which has been raised by the learned counsel for the petitioner is that the benefit of full back wages should not have been given to the workman, especially when the respondent No. 2-workman conceded that during the time after his termination he was working in the fields for which work he was paid in kind and was also working as and when he got the work hence, the gain which the respondent No. 2-workman got while being employed during the said period should have been adjusted and appropriate quantum of back wages should have been given.

11. Learned counsel for respondent No. 2-workman has not been able to dispute the statement of the workman that he was having agricultural benefits as well as he was working as and when he got the work on daily wage basis for which he was paid hourly.

12. Keeping in view the totality of the circumstances, the Labour Court should have taken into consideration the said facts while granting the back wages hence, the impugned Award is modified to the extent that the respondent No. 2-workman will be entitled for 50% of the back wages instead of 100% back wages and the impugned Award is modified accordingly.

12. Petition is disposed of in above terms.



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13. Pending miscellaneous application, if any, also stands disposed of.

July 24, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No