

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

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CWP-6363-2001 (O&M)

Date of Decision : April 17, 2026

SURINDER KUMAR

-PETITIONER

V/S

**THE PRESIDING OFFICER, LABOUR COURT, AMBALA AND
ORS.**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Satish Chaudhary, Advocate
for the petitioner.

Mr. Kapil Bansal, D.A.G., Haryana.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant writ petition, the petitioner/workman assails the award dated 26.08.1997 passed by the respondent No.1-Labour Court, Ambala, whereby the reference has been answered against him on the premise that he did not complete 240 days of service in the year immediately preceding the date of his termination. The impugned award records a categorical finding that the workman had rendered only 179 days of service during the said period and, consequently, was held disentitled to invoke the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as the "I.D. Act").

2. Learned counsel for the workman contends that the Labour Court has erred in law by failing to address the core grievance raised in the claim statement. It is contended that a substantive plea taken by the workman pertained to violation of Sections 25-G and 25-H of the I.D. Act, for the adjudication whereof, it was not necessary for the workman to have

completed 240 days of service in the year preceding his termination. To lend vigour to this submission, reliance is placed upon the verdict rendered by the Hon'ble Supreme Court in "**Ajaypal Singh Vs. Haryana Warehousing Corporation**", 2015(6) SCC 321.

3. No other argument has been raised by learned counsel for the workman.

4. A scrutiny of the record makes it evident that the workman, in his claim statement, specifically pleaded that employees junior to him were retained in service, whereas he was denied the opportunity to continue in employment. The relevant extract of the claim statement reads as under:-

"4. That at the time of termination of the services of the workman, the respondents/department did not adopt the procedure of Industrial Dispute Act, 1947. The respondent/department did not follow the procedure of section 25 (G) of I.D. Act, 1947, because at the time of termination the services of any workman, the respondents/department must follow principle of last come go. In this way the respondents/department violated the procedure of section 25-G of the Industrial Dispute Act, 1947, because number of junior to me are still working in the respondents/department. The name of some junior workman are given as under:-

- 1. Dharampal Singh M.C.C. Dhenpure*
- 2. Suresh Pal M.C.C. Bhogpur*
- 3. Surinder Kumar M.C.C. Gundiana*
- 4. Bant Singh M.C.C. Shahpura*
- 5. Ram Sharen M.C.C. Radaur*
- 6. Anil Kumar M.C.C. Radaur*
- 7. Baldev Kumar M.C.C. Chemrori*
- 8. Mama Chand M.C.C. Rapoli*
- 9. Gurnam Singh M.C.C. Gumthala*

Apart from them, number of junior workers are still working in the said department. Their names can be disclosed from the record of the respondents/department."

5. The respondents No.2 and 3/management did not specifically deny the above pleading but took the hereinafter extracted vague plea in its

written statement.

“2. In reply to para no.2 of the application it is submitted that contents of para are not basis on that facts. It is not correct that the services of the applicant has been terminated service of the applicant has been terminated as per record of this office. He has stopped attending to his duties on his own accord which is evident from the face that he has never represented his case to the respondent. Sh. Suresh Pal and Dharam Pal have not been recruited a fresh as alleged by the applicant as per record of this office. Hence the submission of the applicant is wrong and denied.

3. In reply to para no.3 of the application it is submitted that there is nothing in the record of this office that the applicant has ever made any representation. Hence the contents are wrong and denied.

4. In reply to para no.4 of the application it is stated that as per facts given in para no.1 to 3 above it evident that the submissions of the applicant are wrong and not based on the facts and deserves to be dismissed.”

6. A perusal of the impugned award reveals that although the Labour Court has recorded the pleadings of the workman, it has conspicuously failed to return any finding thereon and has instead rejected the claim solely on the ground that the workman had not completed 240 days of service in the year preceding his termination, thereby disentitling him from invoking Section 25-F of the I.D. Act.

7. In the considered view of this Court, the approach adopted by the Labour Court is legally untenable. It is well-settled that for invoking the provisions of Sections 25-G and 25-H of the I.D. Act, completion of 240 days of service is not a *sine qua non*. In this regard, gainful reference can be made to the law laid down in *Ajaypal Singh’s case (supra)*, the relevant paragraphs whereof are reproduced hereunder:-

“14. Section 25H is couched in wide language and is capable of application to all ‘retrenched workmen’ and not merely those covered under Section 25F of the Act (refer: Central Bank of India v. S. Satyam, 1996 (5) SCC 419).

15. Section 25H reads as follows:

“Section 25H. Re-employment of retrenched workmen.-

Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment and such retrenched workman who offer themselves for re-employment shall have preference over other persons.”

16. In case if an employer proposes to employ any person, it is mandatory on the part of the employer to give an opportunity to the retrenched workmen who offer themselves to re-employment and such workmen who offer themselves for re-employment shall have preference over other persons. The provision of Section 25H is in conformity with Articles 14 and 16 of the Constitution of India.”

8. In view of the aforesaid discussion and the settled position of law, the impugned award fails to withstand judicial scrutiny. Accordingly, the **impugned award is set aside**, and the **matter is remanded to the Labour Court, Ambala, for fresh adjudication**, particularly with regard to petitioner’s plea regarding violation of Sections 25-G and 25-H of the I.D. Act. Given that the claim statement dates back to 1995, the Labour Court is directed to decide the matter expeditiously, preferably within a period of six months.

9. The instant writ petition is **disposed of** accordingly.

10. Pending application(s), if any, also stand disposed of accordingly.

April 17, 2026
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No