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

CWP-26261-2014(O&M)

Date of Decision:06.02.2026

SHIV SARAN

-PETITIONER

V/S

**THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL AND
LABOUR COURT, LUDHIANA AND OTHERS**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Ms. Harshmir Kaur Swaitch, Advocate for
Mr. N.S.Swaitch, Advocate,
for the petitioner.

Mr. Sanjay Tangri, Advocate,
for respondent no.3.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, as cast under Article 226/227 of the Constitution of India, the workman has challenged the legality of Award dated 03.04.2014 (Annexure P-9), wherethrough, the reference was answered against him by the learned Tribunal (respondent no.1), by observing that it is a case of voluntary abandonment of job, and not of termination, therefore, the provisions of Section 25-F of the Industrial Disputes Act, 1947, are not required to be complied with by respondent no.3-management.

2. Learned counsel for the petitioner-workman, made earnest efforts before this Court to establish that it is not a case of voluntary

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abandonment of job by the petitioner-workman, rather, he was restrained from joining his duties. Therefore, the cessation of service amounted to termination by respondent no.3-management, requiring the compliance of mandatory provisions of Sections 25-F, 25-G and 25-H of the ID Act.

3. She further draws attention of this Court towards letters Ex.M1 and Ex.M2, which were relied upon the learned Tribunal concerned to conclude that its a case of voluntary abandonment of job, whereas the petitioner never received those letters owing to incorrect address mentioned thereon, which clearly reflects the intention of respondent no.3-management, that they wanted to terminate the services of the petitioner-workman, and those letters were issued only to create the ground to prove the voluntary abandonment of job.

4. She also submits that abandonment of service cannot be presumed, instead, the burden lies heavily upon respondent no.3-management to establish the same by leading cogent and convincing evidence, however, they miserably failed to discharge this burden, and therefore, the reference ought to have been answered in favour of the petitioner.

5. She next draws attention of this Court towards the cross-examination of MW1-Pritpal Krishan Beri, to submit that, he categorically admitted not possessing any evidence *qua* the receipt of Ex.M1 and Ex.M2 by the petitioner-workman, and that he was unable to answer, whether he is duly authorised by respondent no.3-management to depose.

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6. She in addition submits that the petitioner-workman, himself stepped in the witness box as WW1, and denied the receipt of letters dated 17.08.2003 and 25.08.2005 (Ex.M1 and M2 respectively), therefore, the reference is required to be interfered with by this Court.

7. No other argument were raised by learned counsel for the petitioner-workman, before this Court.

8. *Per contra* learned counsel for respondent no.3-management submits that, as per the petitioner-workman, he was not allowed to join duties on dated 11.08.2005, however, he raised the demand for the first time on 20.12.2007, i.e. after a lapse of about 2 ½ years.

9. He further submits that even in cross-examination of the petitioner-workman, he categorically admitted the correctness of address mentioned at A upon the letter Ex.M1, and at B in Ex.M2, which is sufficient to establish that respondent no.3-workman, called him to join his duties twice, i.e. on 17.08.2003, and on 25.08.2005 respectively. Therefore, it is a case of voluntary abandonment of job, and not of termination from services by respondent no.3-management.

10. Finally, he submits that during the cross-examination of the petitioner-workman, respondent no.3-management offered him to join his duties, to which, he specifically, stated that he was not ready to join the duties without back-wages, which clearly establishes that respondent no.3-management never terminated his services, rather he himself abandoned the job.

11. This Court has considered the submissions, as made by

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learned counsel for the parties concerned, and has perused the entire case file.

12. Succinctly stated, the claim statement made by the petitioner-workman, was converted into the reference under Section 10(1)(c) of the ID Act, for adjudication, as to whether, the termination of services of the petitioner-workman, is illegal and justified?

13. As per the claim statement, it is pleaded that the petitioner-workman, was working with respondent no.3-management, as a Painter since 21.12.1990, and his last drawn salary was Rs.5,500/- p.m., and, his services were terminated on 11.08.2005, without any notice, notice pay, and retrenchment compensation, and without holding any inquiry, and without serving any chargesheet upon him, which is a gross-violation of Section 25-F, 25-G and 25-H of the ID Act, 1947. On the other hand respondent no.3-management, came up with a plea that, it is not a case of termination, rather it is a case of willful absence from the duty by the petitioner-workman w.e.f. 11.08.2005, and he did not turn up to report on his duty, despite issuance of registered letters dated 17.08.2005 and 25.08.2005. Thereafter, the parties led their respective evidence, and on the basis of those evidences, the learned Tribunal concerned, concluded that it is a case of voluntary abandonment of job and not of termination. Accordingly, the reference was answered against the petitioner-workman.

14. Upon appreciation of evidence, including the statements of the witnesses, this Court finds that it is a clear cut case of voluntary abandonment of job. It is evident from the fact that the petitioner-



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workman did not report for duty after 11.08.2005, and thereafter, he did not raise any claim, or file any complaint alleging that he was denied from joining his duties by respondent no. 3-management. Instead, after a delay of about two and a half years, the petitioner-workman filed his claim statement. A perusal of the claim statement further reveals that there is no averment to the effect that the petitioner ever attempted to rejoin his duties, or made himself available for work with the respondent no.3-management. No evidence to this effect has been led. In his cross-examination, when he stepped into the witness box as WW-1, the petitioner categorically admitted that he was residing at the address mentioned at point 'A' and 'B' on documents Ex.M1 and Ex.M2, respectively, and did not specifically deny the receipt of the said communication. The relevant portion of his cross-examination is extracted hereinafter:-

“.....It is correct that I was residing at the address mentioned at A on Ex-M1. I do not know whether I have received the said letter or not. I did not receive the letter dated 25.08.2005, which is Ex-M2 at place B. Place B is correct, where I resided.....

15. The aforesaid cross-examination is sufficient to conclude that respondent no.3-management by sending letters (*supra*), through registered post at the correct address of the petitioner-workman, had invited him to join his duties, however, he did not turn to join his duties, and thereafter, for the first time, after a lapse of about 2 ½ years, he raised the claim vide demand notice only on 20.12.2007. Accordingly, aforesaid conduct on the part of the petitioner-workman, is sufficient to

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hold that it is a case of voluntary abandonment of job, instead of termination.

16. At this stage, learned counsel for the petitioner also made a submission that the petitioner-workman, worked for about 15 years, and therefore, once he was not allowed to join his duties, the onus was upon respondent no.3-management, at the first instance, to establish abandonment of job, and, secondly, that the termination order has been passed validly, after conducting proper and fair inquiry, or not.

17. So far as this submission is concerned, this Court does not find any merit therein, as already observed by this Court, as well as the learned Tribunal concerned, that it is a case of voluntary abandonment of job, therefore, there is no obligation upon the management to pass an order of termination.

18. In view of the above, this Court does not find any perversity or illegality in the impugned Award, to take a divergent view, as has been taken by the learned Tribunal concerned. Therefore, finding no merits, the instant petition, is hereby **dismissed**.

February 06, 2026
dharamvir

(KULDEEP TIWARI)
JUDGE

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