
(2012) 08 P&H CK 0277
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 1252 of 2011 (O and M)

Anil Kumar

APPELLANT

Vs

The Presiding Officer, Labour Court, Ambala and Others

RESPONDENT

Date of Decision : 21-08-2012

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F, 25G

Citation : (2012) 08 P&H CK 0277

Hon'ble Judges : Satish Kumar Mittal, J; Inderjit Singh, J

Bench : Division Bench

Advocate : Jagram Singh Cooner, for the Appellant;

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—This Letters Patent Appeal has been directed against the order dated 26.4.2011 passed by the learned Single Judge, whereby Civil Writ Petition No. 6350 of 2011 filed by the appellant (workman) challenging the Award dated 9.12.2010 passed by the Presiding Officer, Labour Court, Ambala, answering the reference against him, has been dismissed. We have heard Learned Counsel for the appellant and gone through the impugned order as well as the Award.

2. The appellant-workman, who was appointed by the respondent-management as a Clerk on 9.4.2001, raised an industrial dispute that his services were illegally terminated on 4.2.2007, without giving notice, holding an enquiry and payment of retrenchment compensation, in gross violation of the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act'). The matter was referred to the Labour Court.

3. The Labour Court, after taking into consideration the evidence led by both the parties, had come to the conclusion that services of the workman were not terminated by the management, rather the workman himself abandoned his job voluntarily. As such, the question of violation of Sections 25-F and 25-G of the

Act did not arise at all. It has been found as a fact that when the workman did not report for duty, various letters were sent to him asking him to join his duty, but in spite of those letters, he did not join his duty. The plea taken by the workman that he did not receive those letters was not accepted. The said finding of fact has been affirmed and the writ petition has been dismissed by the learned Single Judge, while observing as under :

I am afraid such a contention cannot be accepted in the absence of any material to that effect. The petitioner has not been able to show that his services had been terminated ever by the respondents. There is no order of termination on record and neither has any been shown to the Court. Besides, the respondents have proved that numerous correspondence was dispatched to the address of the petitioner to report for duty but went unanswered and the plea of the petitioner that he had not been served with these letters does not inspire any confidence because of the fact that the address on the correspondence issued by the respondents and the address furnished by the petitioner before the Labour Court was the same. On both counts, therefore, the plea of the petitioner is untenable and no fault can be found with the findings of the Labour Court.

4. Learned Counsel for the appellant again emphasises that the workman did not receive any letter and that he went to join his duty, but was not allowed to do so. This contention cannot be accepted. Once the letters were sent to the appellant on the address furnished by him before the Labour Court, then it is to be presumed that those letters were received by him. The appellant did not lead any evidence to dislodge the presumption and to prove that those letters were not received by him in due course. It has been further noticed by the Labour Court that the workman did not lead any evidence to prove that he was prevented by the management from joining his duty. Therefore, we do not find any error in the finding of fact recorded by the Labour Court that the workman himself had abandoned his job voluntarily, which has been affirmed by the learned Single Judge. No merit. Dismissed.