
(2001) 08 P&H CK 0062
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4597 of 2000

Bhajan

APPELLANT

Vs

Presiding Officer, Labour Court, Jalandhar

RESPONDENT

Date of Decision : 29-08-2001

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 25

Citation : (2001) 08 P&H CK 0062

Hon'ble Judges : S.S. Nijjar, J

Bench : Single Bench

Advocate : R.S. Sharma, for the Appellant; H.S. Sran, DAG, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Nijjar, J.—This writ petition under Articles 226/227 of the Constitution of India seeks issuance of writ of Certiorari quashing the award - Annexure P-1 whereby the reference made on the demand of the petitioner has been dismissed.

2. In the demand notice as well as statement of claim, the petitioner had submitted that he was employed as Distemperman by respondent-department in the month of February, 1981 on daily wages at the rate of Rs. 32/- per day. He used to be paid after the expiry of month. His services had been terminated on 1.11.91 without service of notice, charge-sheet or payment of compensation. He has also stated that juniors to him are still working in the department. The Management had submitted that the workman had not worked for 240 days. He was engaged for a specific period under P.W.D. Code 1.127 for specific job and his services were liable to be terminated automatically, after the expiry of specific period and job against which he was appointed. It was also pleaded that the reference is bad in law being beyond limitation. The allegation that the juniors are still working, had been denied. On the basis of the pleadings of the parties, the Labour Court framed the following issues :-

i) Whether the workman had completed 240 days of service with the respondent-Management as alleged ?

ii) Whether the workman was appointed for a specific period on a specific job ? If so to what effect?

iii) Whether the termination of/service of the workman is justified and in order ?

3. To substantiate his claim, the workman appeared as WW1. After the inspection of the record, the work man had prepared details of his working days which are contained in Ex.WW1/1 and Ex.WW1/2 are the comments of the department and Ex.WW1/3 is reply which the department had filed before the Labour Officer. -

4. During the cross-examination, the workman admitted that he was employed in December, 1983 on daily wages. He also admitted that he was employed for specific period and used to do the work of distemper on about 15-20 Kothis. On the basis of the aforesaid evidence, the Labour Court has come to the conclusion that the workman was employed on daily wages and for specific job of distempereing government buildings. The nature of job performed by the workman was such which would not have required continuous working of the workman for weeks, months or years. The work that used to be done by the workman was definitely of casual nature. Therefore, the Labour Court relied on the judgment of the Supreme Court in the case of Executive Engineer (State of Karnataka) Vs. K. Somasetty and others, in which it was held that the daily wagger appointed on a project undertaken by State who was discharged on closure of the project, had been reinstated into service by the labour Court. Without jurisdiction. However, the Labour Court then adverted to the statement-made by the workman himself ill Ex.WW1/1 which had been prepared by the representative of the workman, after inspecting the record of the respondent-department. This statement showed that the workman did not work in November, 1991 at all. In October, 1991 he worked for 29 days, in August 1991, he did network, in July, 1991 he worked for 30 days, in June, 1991 he worked for 30 days, in May, 1991, he worked for 31 days, in April, 1991, he worked for 28 days, in March, 1991 he worked for 14 days, in February and January, 1991 he did not work for any day. In December, 1990 he worked for 25 days. Added together, it shows that the workman had not worked for 240 days. Consequently, the Labour Court held that the workman is not entitled to the benefit of Section 25-F of the Industrial Disputes Act.

5. Mr. Sran, Deputy Advocate General, Punjab submitted that the statement of the workman made before the Labour Court clearly shows that the workman has not worked even for a period of 100 days. During the cross-examination, he stated that it is correct that he was employed for specific work. He also admitted that he used to work as Distemperman. He further stated that he was doing distemper work of the buildings. He used to do distemper work of 20 bungalows. It took 4/5 days to distemper one bungalow. Clearly, therefore, it shows that even the workman himself admitted that the maximum period he could work in a

year would be 100 days. In such circumstances, it would not be possible to hold that the findings of fact recorded by the Labour Court are based on no evidence. The award does not suffer from an error apparent on the face of the record. Faced with this situation, Mr. Sharma sought to rely on a document which has been placed on record of this case with C.M. 4531 of 2001. The documents (Annexures P-2 and P-2/A) sought to be relied upon by Mr. Sharma are a letter written by the Executive Engineer Provl. Division, Hoshiarpur dated 19.6.91 to the Superintending Engineer, Construction Circle, Chandigarh and a list of work charged employees working on muster rolls who are said to have completed 240 days. I am of the considered opinion that this Court, while exercising jurisdiction under Articles 226/227 of the Constitution of India, will not convert itself into a labour Court. These documents ought to have been summoned before the Labour Court. Even otherwise, the list-Annexure P-2/A merely gives the list of work-charged employees who had completed 240 days. The list does not specify the year in which the workman had completed 240 days. The industrial dispute in the present reference related to the calendar year 1991, as the services of the workman had been terminated on 1.11.1991. Therefore, even if one has to consider the aforesaid documents, the result would not be that the award suffers from an error apparent on the face of the record.

6. In, view of the above, I find no merit in the present writ petition and the same is hereby dismissed. No costs.

7. Petition dismissed.