

(2010) 09 SHI CK 0101
In the High Court Of Himachal Pradesh
Case No : CWP No. 1990 of 2008

Executive Engineer HPPWD	Vs	APPELLANT
Lal Chand		RESPONDENT

Date of Decision : 23-09-2010

Acts Referred:

Citation : (2010) 09 SHI CK 0101

Hon'ble Judges : Surjit Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Surjit Singh, J.—Present writ petition has been filed by the State, challenging the award, dated 31.5.2008, of Presiding Officer of Industrial Tribunal-cum-Labour Court, Shimla, whereby a direction has been given to it (the State) to reengage the petitioner, with seniority and continuity in service, alongwith back-wages to the extent of 50%.

2. In the writ petition it is stated that services of the respondent, as a daily waged labourer, had never been terminated, but he had himself abandoned the job. It is further stated that when the respondent himself had abandoned the job and did not join, despite issuance of two letters dated 11th and 12th August, 1998, Tribunal was not justified in holding that service of respondent had been illegally terminated and ordering his reengagement.

3. Respondent denies that he had abandoned the job. His plea is that his services had been terminated.

4. Learned Tribunal on the basis of evidence, adduced during the course of trial, has held that the respondent did not abandon service, but had been illegally terminated.

5. I have heard learned Counsel for the parties and gone through the record.

6. There is reference to two letters dated 11th and 12th August, 1998 in the writ

petition. Though these letters have not been placed on record of the present writ petition, I sent for the record of Presiding Officer, Industrial Tribunalcum-Labour Court. The two letters are available on the said record and are marked as Exts. R1 and R2. A reading of the letters does not suggest that the respondent had abandoned the job. It is nowhere written in the two letters that the respondent had been absenting from duty or that he had, on his own, stopped coming for duty. The only thing written in the two letters is that he should return and start doing work. Use of words that "he should return" indicates that he did not leave the job, on his own.

7. In any case, letter dated 11.8.1998, makes a reference to another letter dated 30.6.1998, by which he was allegedly asked to report to duty from July, 1998. That letter has been withheld. Even a reference to this letter is not there in the writ petition. An official from the concerned department is present in Court, with the record. He says that letter dated 30.6.1998 is not available in the record, brought by him. The said letter, if produced, might have thrown light as to the circumstances, under which the respondent had not been attending the office, because the same was written prior to writing of letters Exts. R1 and R2 and it is referred to in one of these letters.

8. In view of the above stated position, it cannot be said that the respondent abandoned the job, voluntarily. Consequently, writ petition is dismissed.