
(2000) 07 P&H CK 0072
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 8618 of 2000

Gopal Clothing Co. Ltd.

APPELLANT

Vs

Presiding Officer, Labour Court and Another

RESPONDENT

Date of Decision : 12-07-2000

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2001) 90 FLR 143 : (2001) 2 LLJ 311

Hon'ble Judges : S.S. Sudhalkar, J; Mehtab S. Gill, J

Bench : Division Bench

Advocate : P.K. Mutneja, for the Appellant;

Final Decision : Dismissed

Judgement

S.S. Sudhalkar, J.—Respondent No. 2 (hereinafter referred to as the "employee") was appointed on the post of helper in the factory of the petitioner with effect from August 2, 1988 (the petitioner contends that she was appointed on the post of "thread cutter" with effect from January 2, 1989). The case of the employee is that her services were illegally terminated with effect from April 16, 1990, and that she was not paid any compensation as required u/s 25F of the Industrial Disputes Act (hereinafter referred to as "the Act") at the time of termination of her services, although she had completed service for more than 240 days. She gave a demand notice on the very next day, i. e. on April 17, 1990, alleging that her termination was not in accordance with law. The matter was referred by the State Government for adjudication to the Labour Court, Gurgaon.

2. The case of the management is that the employee started absenting herself from the job with effect from April 14, 1990. On April 28, 1990, the petitioner wrote her a letter, copy annexure P-1, requesting her to rejoin her duties immediately. Another letter (copy annexure P-2) to the same effect was written to her on May 25, 1990. It is the further case of the petitioner that on June 30, 1990, the employee came "present" in the factory and submitted her resignation, copy annexure P-3. The same was accepted and full and final amount, which was

due to the employee, was paid to her and a copy of the receipt for the same is at annexure P-4.

3. The Labour Court accepted the plea of the employee and ordered reinstatement with full back-wages. By this writ petition, the petitioner has challenged the impugned award of the Labour Court. We have heard learned counsel for the petitioner.

4. The letter of resignation has been discussed by the Labour Court. The letter of resignation is not admitted by the employee, and both the petitioner as well as the employee produced handwriting experts in support of their respective contentions. Both the experts have supported the party calling them. The Labour Court found that the signature of the original resignation letter and the receipt for dues, exhibit M-14/1 and exhibit M-14/2, respectively, are not identical even inter se and that the disputed signatures are not similar with the signatures of the employee on the demand notice dated April 17, 1990, and authority letters. It is also observed by the Labour Court that resignation was scribed by M. W.-2, Prem Singh. Prem Singh has also signed the resignation letter as a marginal witness. Further, it is found by the Labour Court that the date on the right top corner of resignation letter, exhibit M-14/1, is written in Hindi numerals and the date below signatures of Prem Singh is in Roman numerals and that nothing is mentioned in exhibit M-14/1 to show that this letter was scribed by Prem Singh. Prem Singh has signed in English and the resignation letter is written in Hindi. The Labour Court has also considered the fact that above his signature he has written gava instead of gavaha and instead of the word istifa (resignation), it is written itifa, Prem Singh is an employee of the petitioner and it is observed by the Labour Court that signatures of any independent person were not obtained by the management on the receipt, regarding payment of dues. The Labour Court has also considered the fact that the demand has been raised by the employee on April 17, 1990, i.e., just one day after the date of termination of her services and if she was absenting from duty with effect from April 14, 1990, she would not have raised a demand on the management with such promptness. There is, therefore, a controversy over the resignation letter. As mentioned above, both the parties have examined their expert witnesses to prove their stand. However, circumstances tilt the balance in favour of the employee in this case. If she had remained absent from duty with effect from April 14, 1990, she would not have raised demand on April 17, 1990. On the contrary she would have joined her services after the letters were written by the management on April 28, 1990, and May 25, 1990. Moreover, when she has already raised a demand on the management, there was no occasion for her to give her resignation. Therefore, in addition to the oral evidence and the evidence including that of the handwriting experts, there is circumstantial evidence also. Considering all these evidence, the Labour Court has decided the case in favour of the employee.

5. In the result, we find no infirmity in the award of the Labour Court. This writ

petition is, therefore, without merit and is dismissed.