
(1993) 07 P&H CK 0102
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 10609 of 1992

Hari Chand

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 27-07-1993

Acts Referred:

Industrial Disputes Act, 1947 — Section 10

Citation : (1994) 68 FLR 1099 : (1994) 1 LLJ 825 : (1993) 104 PLR 509

Hon'ble Judges : V.K. Bali, J

Bench : Single Bench

Advocate : Abha Rathore, for the Appellant; Jagdev Sharma, Addl. A.G. and Suresh Monga, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

V.K. Bali, J.—Petitioner who was employed with respondent No. 2 on May 23, 1988 as helper in production department was asked to quit his job by the management-respondent vide orders dated August 9, 1989. Aggrieved, he served demand notice on the management on September 21, 1989 (Annexure P-1). It is obvious that conciliation proceedings failed and the matter went to the Government for considering the desirability of making reference u/s 10(1)(c) of the Industrial Disputes Act. However, after going into the matter, the respondent-State vide orders, Annexure P-3, dated July 10, 1990 declined to make the reference on the ground that the petitioner had worked with the management only for two months and thereafter he worked with M/s. Ashok Kumar Verma.

2. In the petition that has been filed, complete details have been given which show that the petitioner was in fact working with the respondent-management all through. Although all the details have been denied yet this was a matter which was in the exclusive domain of the Labour Court/Industrial Tribunal as the case may be and the Government while making a reference could not enter into the merits of the controversy. The matter stands clinched in favour of the petitioner by Supreme Court judgment reported as Ram Avtar Sharma and Others Vs.

State of Haryana and Another,). This judgment has been followed by this Court in number of decisions.

3. Mr. Monga, learned D.A.G. appearing for the Haryana State, however, contends that this writ petition should be dismissed on the ground of laches as the same was filed after two years when the order Annexure P-3 declining the reference was passed by the Government. Some reasons have been given in the petition explaining the delay but all that I would like to comment here is that even though the petition is filed in this Court after a period of two years, the same would at the most involve forfeiture of wages of the petitioner for the said period. If he is able to explain the delay satisfactorily, the matter may be otherwise. This question is, however, left open and shall be decided by the Labour Court but in so far as the validity of Annexure P-3 is concerned, the same, in view of judgment in Ram Avtar Sharma 's case (supra), has to be quashed.

4. In view of what has been observed above, the order of the Government dated July 10, 1990 and all other consequential orders that might have been passed by referring to Annexure P-3 are quashed and it is directed that reference be made within one month from today. Parties to bear their own costs.