
(2000) 11 P&H CK 0058
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6742 of 1999

Haryana State Electricity Board	Vs	APPELLANT
Presiding Officer, Labour Court, Ambala		RESPONDENT

Date of Decision : 14-11-2000

Acts Referred:

Industrial Disputes Act, 1947 — Section 2, 25F

Citation : (2000) 11 P&H CK 0058

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

Bench : Division Bench

Advocate : Mr. Aman Chaudhary, for the Appellant; Mr. M.S. Cheema, for the Respondent

Final Decision : Allowed

Judgement

S.S. Sudhalkar, J.—This writ petition is filed by the employer challenging the award of the Labour Court dated January 11, 1999 (copy annexure P-1) vide which respondent No. 2 was ordered to be reinstated in service with continuity of service and 40% back wages from the date of demand notice.

2. Respondent No. 2 was in the service of petitioner and counsel for the petitioner has stated that he was a daily wage labourer. He was appointed in April, 1979 and he worked upto March, 1983 as per say of the petitioner and June, 1984 as per say of respondent No. 2 Demand notice was issued on February 8, 1998.

3. The Labour Court has given a finding that respondent No. 2 had worked for more than 240 days. We do not find any reason to interfere with the finding that the petitioner has chosen not to place the best evidence which was in its possession on the record of the case The principles laid down in the case of Gopal Krishnaji Ketkar Vs. Mahomed Haji Latif and Others, shall come into play.

4. The next point argued by the learned counsel for the petitioner is that the demand notice was given after a period of about 5 years. The Supreme Court has

considered the question of delay in various cases, some of them are : Ajaib Singh Vs. The Sirhind Co-Operative Marketing Cum-Processing Service Society Limited and Another, and The Nedungadi Bank Ltd. Vs. K.P. Madhavankutty and Others, .

5. The learned counsel for the petitioner is trying to base his case of abandonment of service on the delay, and the factum of delay is argued as the corroborative evidence of respondent No. 2 having abandoned the service. Counsel for the petitioner has cited the case of General Manager, Punjab Roadways, Nawanshehar v. Sarsander Kumar 1997(2) SCT530. It has been held therein by the learned Single Judge of this Court that the delay of more than 5 years in raising the demand about illegal termination of services tantamounts to abandonment of the claim.

6. Counsel for the petitioner has also relied on the case of Balwant Singh v. Labour Court, Bhatinda and others 1995(4) SCT 475 (P & H)(DB) : reported in 1995(3) P.L.R. 298, wherein it has been held that it is open for the Labour Court to decline relief in a case where the workman has been negligent and has offered no satisfactory explanation for the delay.

In the present case, we can restrict our observations to the effect of delay only qua the plea of abandonment. We do not, therefore, find it proper to go into the discussion in the case of Balwant Singh's case (supra). When in the present case for a long time, the respondent-workman did not file a demand notice and when specifically, plea about his abandonment of service is raised before the Labour Court, the effect of delay on the plea of abandonment has to be considered and if it is considered, the plea in the present case can be accepted. It is also not necessary, therefore, to discuss the principles laid down in the cases of Ajaib Singh and the Nedungadi Bank (supra).

8. As a result, we do not agree with the finding of the Labour Court by which it has held that there is no abandonment of service. This writ petition is, therefore, allowed. The impugned award is set aside.

9. Petition allowed.