
(2015) 04 P&H CK 0288
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 13614/2011 (O&M)

Ishwar

APPELLANT

Vs

Presiding Officer, Labour Court and Others

RESPONDENT

Date of Decision : 07-04-2015

Acts Referred:

Industrial Disputes Act, 1947 — Section 25-F, 25F(2)(b)

Citation : (2015) LLR 595

Hon'ble Judges : Amit Rawal, J

Bench : Single Bench

Advocate : Deepak Sonak, for the Appellant

Final Decision : Disposed off

Judgement

Amit Rawal, J.—The challenge in the present writ petition is to the award dated 22.7.2010 whereby the Labour Court has declined the reference. Learned counsel for the petitioner submits that the award of the Labour Court is vitiated in law, much less erroneous as the Labour Court has categorically held that there is a violation of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter called as "the Act") and despite giving such finding no compensation, much less any order of reinstatement has been passed.

2. Mr. Devender Punia, learned counsel appearing on behalf of respondent No. 2 submits that the petitioner was only appointed as a part-time rickshaw-puller and he was re-appointed on 8.5.2003 in pursuance to the previous award but again on 30.11.2005 he did not report for duty and thus abandoned his job. The award of the Labour Court is fair, legal and justified and there is no illegality and perversity.

3. I have heard learned counsel for the parties, appraised the impugned award and paper book.

4. No doubt that in paragraphs 10 and 11 the Labour Court has arrived at a categoric finding that there is violation of provisions of Section 25-F of the Act

and the Management has also not served any retrenchment notice and also failed to comply with the provisions of section 25F(2)(b).

5. In view of the judgment in D.K. Yadav Vs. J.M.A. Industries Ltd., (1993) 3 JT 617 : (1993) 2 LLJ 696 : (1993) 3 SCALE 39 : (1993) 3 SCC 259 : (1993) 3 SCR 930 it was incumbent upon the Management to serve show cause notice or hold enquiry. The plea of the Management that they did not have the latest address of the workman is not sustainable as the Management could have sent the show cause notice at the last available address and held enquiry and proceeded with the enquiry even in the absence of the workman.

6. Be that as it may, since the workman after having been reinstated in the year 2003 rendered a service for only two years, it would not be in the fitness of things to order reinstatement and as well as payment of full or 50% back-wages. I deem it appropriate to grant a compensation by taking into consideration the principles culled out in the judgment of Full Bench rendered by this Court in Municipal Council, Dina Nagar v. Presiding Officer, Labour Court, 2014 (4) SCT 514.

7. The Award of the Labour Court is modified and accordingly the Management is directed to pay the consolidated compensation of Rs. 1,50,000/-. With the aforementioned observations the writ petition is disposed of.