
(2001) 03 P&H CK 0140
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6065 of 1986

Jaswant Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 29-03-2001

Acts Referred:

Constitution of India, 1950 — Article 14, 16(1)
Industrial Disputes Act, 1947 — Section 25

Citation : (2001) 03 P&H CK 0140

Hon'ble Judges : S.S. Sudhalkar, J

Bench : Single Bench

Advocate : Mr. B.R. Mahajan, for the Appellant; Mr. P.S. Chhina, D.A.G., for the Respondent

Judgement

S.S. Sudhalkar, J.—This writ petition is filed by the workman challenging the award of the Labour Court dated 15.12.1985 (copy Annexure P/1) vide which reliefs of reinstatement and backwages were de-clined to him.

2. The case of the petitioner was that he was appointed on 28.12.1976 and his services were terminated with effect from 11.2.1977 vide order dated 14.2.1977. The case of the petitioner is that his juniors were retained though his service was terminated and subsequently also new persons were appointed.

3. The Labour Court has relied much on the letter of appointment which is at Ex.M1 in the record of the labour court. It is the letter vide which the petitioner was appointed as Conductor from 28.12.1976 to 10.2.1977. The important fact is that the said letter itself is dated 2.3.1977 i.e. after the service of the petitioner was terminated. This shows that this letter was even drafted after the termination of the service of the petitioner. Therefore, no reliance can be placed on this letter to hold that the service of the petitioner was for a limited period and that the terms of the appointment had come to an end. This being so, the question of applicability of section 25O of the Industrial Disputes Act (hereinafter to as the "Act") will have to be considered. The Labour Court has held that there

was no plea of malafides supported by proper evidence. However, section 25G of the Act does not require a specific plea of malafides. The Labour Court had relied on Articles 14 and 16(1) of the Constitution of India and not regarding section 25G of the Act.

4. In view of the above reasons, I find that the award of the Labour Court cannot be upheld.

5. Regarding back wages, learned counsel, for the petitioner argued that full back wages be granted to the petitioner. However, I do not agree with this contention in view of the fact that the petitioner had not completed even 240 days of service when he was terminated. Back wages in this case can be restricted to 30% only.

6. As a result, this petition is partly allowed. The award of the Labour Court is set aside and the petitioner is ordered to be reinstated with continuity of service and 30 per cent back wages from the date of the demand notice till the date of reinstatement.

7. petition partly allowed