

(2000) 10 P&H CK 0037

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 10392 of 1999

Kaithal Co-operative Sugar Mills Ltd.

APPELLANT

Vs

Presiding Officer, Labour Court, Ambala

RESPONDENT

Date of Decision : 31-10-2000

Acts Referred:

Industrial Disputes Act, 1947 — Section 11, 25

Citation : (2000) 10 P&H CK 0037

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

Bench : Division Bench

Advocate : Mr. R.K. Malik, for the Appellant; Mr. Shyam Kumar Sharma, for the Respondent

Judgement

S.S. Sudhalkar, J.—This writ petition has been filed by the employer challenging the award of the Labour Court dated February 8, 1999 (copy annexure P-4) vide which respondent No. 2 (hereinafter referred to as "the workman") was reinstated in service with continuity of service and full back wages.

2. We have heard learned counsel for the parties.

3. The case of the petitioner is that the workman was a seasonal worker and he was paid off on February 28, 1993. Learned counsel for the petitioner argued that being a seasonal worker, he could not claim to be a permanent worker and even if 240 working days have been completed, he can not get a right of reinstatement under the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act"). Learned counsel for the petitioner has relied upon Morinda Co-op. Sugar Mills Ltd. v. Ram Kishan and others etc. 1995(5) S.L.K. (SC) 232. In the present case, it is an admitted position that the workman had worked from January 15, 1992 to November 11, 1992 and November 27, 1992 till February 28, 1993. The working season in the petitioner-Sugar Mills is from October to April as per the submissions of both the counsel. The period of his appointment shows that he was not engaged for a particular season. Counsel for the petitioner argued that there are three types of workmen, namely, (i) Daily Wagers for a

particular season; (ii) Seasonal permanent workers, who are allowed non-seasonal allowance in off season; and (ii) Permanent workmen. According to the learned counsel for the petitioner, the workman was appointed only on daily wages for a particular season. However, in view of the time for which he continued in service, we cannot accept this argument that the appointment of the workman was of a seasonal nature.

4. The workman was appointed as an Electric Helper initially and thereafter worked as Tubewell Operator. Therefore, it is certain that he was not engaged for sugar crushing work, which is a seasonal work. This being the position, the principle laid down in the case of Morinda Co-op. Sugar Mills Ltd. (supra) shall not be applicable to the facts of the present case. In that case, it was observed that since the work was only a seasonal one, the workman could not be said to be retrenched. The facts of that case were different.

5. Learned counsel for the petitioner has also relied upon the decision of a learned Single Judge of this Court rendered in Civil Writ Petition No. 14151 of 1996, copy of which has been produced at Annexure P-5 in this case. It can be seen from 3rd paragraph of the judgment that during the course of arguments, it was not being disputed that Atma Ram respondent was a seasonal worker. Therefore, the principle laid down in that case will not help the petitioner. On the contrary, the workman, even though a daily wage worker, will be protected by the principle laid down by the Supreme Court in the case of State of U.P. and another v. Rajendra Singh Butola and another 2000(84) FLR 696.

6. Learned counsel for the petitioner has argued that at the time of conciliation, the workman was offered service without back wages. However, it was a conditional offer and the workman has not accepted the same hence he cannot be blamed for the same.

7. No other point has been raised during the course of arguments.

8. In view of the above reasons, we do not find any reason to interfere with the award passed by the Labour Court, Ambala. The writ petition is, therefore, dismissed.

9. Petition dismissed