

(2006) 08 P&H CK 0177
In the Punjab And Haryana At Chandigarh

Manjit Singh

APPELLANT

Vs

The Presiding Officer Labour Court and Others

RESPONDENT

Date of Decision : 28-08-2006

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F, 25G, 25H

Citation : (2006) 08 P&H CK 0177

Hon'ble Judges : J.S. Narang, J;Arvind Kumar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. We have heard learned Counsel for the petitioner and perused the award dated 19.10.2005 impugned before us.

2. The industrial dispute was raised by the petitioner-workman alleging therein that he worked with the department from 2.8.1994 till his services were illegally terminated w.e.f. 1.2.1999. His further plea was that the persons junior to him were retained and fresh hands were recruited by the department when his services were dispensed with. Thus, violation of provisions of Sections 25-F, 25-G and 25-H of the Act was claimed. It is well settled proposition of law as held in The Range Forest Officer Vs. S.T. Hadimani, , Manager, R.B.I., Bangalore Vs. S. Mani and Others, and R.M. Yellatti Vs. The Assistant Executive Engineer, , that burden of proof is on the workman to show that he had in fact worked for more than 240 days in the year preceding his termination. This burden is discharged upon the workman adducing cogent and sufficient evidence. However, in the instant case, the petitioner-workman has not led evidence either before the Labour Court or before this Court to substantiate his plea of having worked for 240 days in 12 calendar months preceding the date of his termination. A bare perusal of the impugned award rather shows that the Labour Court, on the strength of the record, produced by the management for the period February 1998 to January 1999 concluded that the workman had worked for 212 days in 12 calendar months preceding the date of his termination. The record pertaining

to the workman before February 1998 was not produced, as the same was stated to have destroyed. But we are afraid that the production of said record would help the petitioner in any manner. The service rendered by the workman earlier to twelve calendar months preceding the date of termination is inconsequential in determining the continuous service. Accordingly, the Labour Court has rightly held that the petitioner is not entitled to any protection as provided u/s 25-F of the Act. Moreover, there was only a bald plea of violation of provisions of Sections 25-G and 25-H of the Act. No evidence was produced to substantiate the said pleas. Thus, the Labour Court, considering the evidence produced on record, has rightly answered the reference against the workman.

3. We find no infirmity in the impugned award of the Labour Court, which is just and reasoned. The petition is wholly without merit and the same is accordingly dismissed in limine.