

(2010) 04 P&H CK 0173
In the Punjab And Haryana At Chandigarh

Mohan Lal

APPELLANT

Vs

The Presiding Officer, Labour Court-II and Another

RESPONDENT

Date of Decision : 08-04-2010

Acts Referred:

Citation : (2010) 04 P&H CK 0173

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Augustine George Masih, J.—Prayer in the present writ petition is for quashing of the Award dated 30.04.2008 (Annexure P-2) passed by the Labour Court-II, Faridabad, vide which the reference has been answered against the petitioner-workman on the ground that the claim, as made by the petitioner- workman, is not made out.

2. Counsel for the petitioner contends that the learned Labour Court has not appreciated the evidence in the right perspective, therefore, the findings, which have been returned by the learned Labour Court, are not correct. He contends that the evidence on the record does not suggest that the petitioner had abandoned the services. He further contends that the persons junior to the petitioner were retained in service and, therefore, the petitioner was entitled to reinstatement in service with all consequential benefits.

3. I have heard the counsel for the petitioner and have gone through the records of the case.

4. A perusal of the record and the Award clearly indicates that a specific finding has been given by the Labour Court that the service of the petitioner was retrenched by the respondents having been rendered surplus. The retrenchment compensation was offered to the petitioner which he refused to accept and thereafter a registered letter was sent along with the payment but the same was also received back undelivered. After that, when the work was available with the

respondents, letters were also sent to the petitioner at his residential address calling upon him to rejoin the duties but no response was received from the petitioner. It is not disputed by the petitioner that the address, which was given on the letters, was his. All this shows that the petitioner had abandoned his services.

5. Counsel for the petitioner relies upon the judgments of this Court in the cases of *State of Haryana v. Rakesh Sharma* 2001 (3) SCT 1082 and *Anil Kumar v. Executive Engineer, PWD, Public Health Division No. 2, New Colony, Gurgaon and Anr.* 2009 (4) SCT 289 to contend that the respondent-Management was required to prepare the refusal memo where it should have been proved by the respondents that the petitioner has, as a matter of fact, refused to accept the payment of the amount of compensation. A perusal of the Award shows that the Management has been able to prove this fact before the Labour Court by adducing cogent evidence which has been relied upon by the Labour Court.

6. As regards the contention of the counsel for the petitioner that seniority was not properly observed by the respondents while retrenching the workman, this contention of the counsel for the petitioner cannot be accepted in the light of the cross-examination of Sh. Suresh Parsad, WW3, which has been placed on record as Annexure P-7 as in his cross-examination, the workman witness clearly states that all persons named in the affidavit were helpers and seniors to the petitioner. That being so, the finding, as recorded by the Labour Court, is fully justified and does not call for any interference by this Court.

7. Finding no merit in the present writ petition, the same stands dismissed.