

(2004) 08 P&H CK 0165
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9193 of 1987

Om Parkash

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 16-08-2004

Acts Referred:

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

Citation : (2005) 1 SLJ 170

Hon'ble Judges : M.M. Kumar, J

Bench : Single Bench

Advocate : I.D. Singla, for the Appellant; Mamta Shingal, A.A.G., for the Respondent

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—This petition filed under Article 226 of the Constitution prays for issuance of a writ in the nature of mandamus directing the respondents to grant regular pay scale to the petitioner from the date he was appointed as Helper and also to regularise his services. According to the averments made in the petition, the petitioner was appointed as Helper on 2.3.1985 in the Transport Department and he was to be paid daily wages as per the rates fixed by the Deputy Commissioner, Ambala. He continued to serve till 9.11.1986 when he absented from duty till 14.1.1987. He offered his services again and he was appointed afresh on 15.1.1987 and was relieved on 9.8.1987. The allegations made in Para 9 of the petition reveal that number of other persons who were appointed as Helper after 2.3.1985 were allowed to continue whereas the services of the petitioner have been terminated on 10.8.1987.

2. In the written statement filed by the respondents the stand taken is that the petitioner absented and on 10.8.1987 he was relieved from the assignment. Moreover, he was not appointed through Subordinate Services Selection Board or Employment Exchange. It is further the stand of the respondents that daily wages are paid out of contingency on the rates as approved by the Deputy

Commissioner. No regular pay scales are given to them. They did not possess the requisite qualifications and experience prescribed for the post. It is claimed that no provision of law has been violated and the petitioner had worked only for a period of 207 days. It is averred that he is not entitled to any relief. With regard to the averments made in Para 9 of the petition, it has been submitted that all those persons who have completed more than 240 days regularly are senior to the petitioner but the petitioner absented himself from duty deliberately and unauthorizedly. Therefore, there is no comparison between the cases of those daily wagers as mentioned in Para 9 of the petition and the petitioner.

3. After hearing the learned Counsel for the parties, I am of the considered view that the case of the petitioner is not covered by any policy/instructions. There is no violation of the principles of seniority because there is no seniority concerning daily wagers nor any such list has been attached with the petition by the petitioner. In any case, no person who is junior to the petitioner has been arrayed as a respondent in the petition. The concept of seniority does not in fact exist in respect of daily wagers who come every day, work and paid daily. They are under no obligation to come for duty the next day. In the absence of a settled seniority list, no argument could be raised on the anvil of Articles 14 and 16(1) of the Constitution. There is, thus, no merit in the petition.

For the aforementioned reasons, this petition fails and the same is dismissed.