
(2000) 10 P&H CK 0022
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1654 of 1999

Punjab State Electricity Board

APPELLANT

Vs

Presiding Officer

RESPONDENT

Date of Decision : 10-10-2000

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 25

Citation : (2000) 10 P&H CK 0022

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

Bench : Division Bench

Advocate : Mr. Deepak Sibal, for the Appellant; Mr. Joginder Sharma, for the Respondent

Judgement

Mehtab S. Gill, J.—The petitioner has prayed for the issuance of a writ in the nature of Certiorari for quashing award dated 19.3.1998 passed by the Presiding Officer, Labour Court, Gurdaspur (Punjab), copy Annexure P3.

2. The petitioner have averred that respondent No. 2 worked on daily wage basis with the petitioner-Board from February, 1987 to October, 1987. He did not complete 240 days. He has abandoned his job and did not join his duties. Demand notice was issued on 20.2.1989 after about two years.

3. Notice of the motion was issued to the respondents.

4. We have heard learned counsel for the petitioner-Board and respondent No. 2.

5. It is an admitted case of both the parties the respondent No. 2 did not complete 240 days but the learned counsel for the respondent No. 2 has vehemently argued that in his statement of claim which is attached as Annexure P1, the workman has categorically stated in para No. 2 that junior persons were retained in service when his services were terminated illegally. Going through the written statement filed by the Board, copy Annexure P2, it is evident that there is no specific denial as to whether junior persons were retained or not. Again going

through the award and the annexures, we do not find anywhere in the statement of the witness produced by the Board that no junior workman was retained while terminating the services of respondent No. 2. We asked the counsel for the petitioner as to whether he can put any light from the statement of the workman, his witnesses or that of the management in this regard but he could not show in the statement of any witness who may have stated that juniors were not retained. This is a clear violation of Section 25G of the Industrial Disputes Act.

6. With the above observations, the workman i.e. respondent No. 2 is entitled to reinstatement. It is not believable that the workman would have remained idle and would not have worked for earning any livelihood for himself for such a long time. Thus, we grant him 50% back wages.

The writ petition is allowed in the terms indicted above.

7. Petition allowed.