
(1995) 03 P&H CK 0020
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 5381 of 1986

Rajwant Singh Rewat

APPELLANT

Vs

The District Food and Supplies Controller and Others

RESPONDENT

Date of Decision : 25-03-1995

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (1996) 1 LLJ 637 : (1995) 111 PLR 13

Hon'ble Judges : N.K. Sodhi, J

Bench : Single Bench

Advocate : Sabina, for the Appellant; K.K. Bheniwala, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

N.K. Sodhi, J.—What is called in question in this petition filed under Article 226 of the Constitution is the award of the Labour Court dated January 15, 1986 passed on reference made to it u/s 10(1)(c) of the Industrial Disputes Act, 1947 (for short, the Act) holding that the petitioner-workman had himself abandoned his job and was therefore, not entitled to any relief.

2. Petitioner was a daily wager working as a watchman with the District Food and Supplies Controller, Ferozepur. His services were allegedly terminated on January 5, 1984 which gave rise to an industrial dispute and the same was referred for adjudication to the Labour Court respondent 3. The workman appeared as his own witness and stated that his services were wrongfully terminated without any notice, charge sheet or compensation and that juniors to him had been retained. Respondents 1 and 2 as the employers of the workman resisted the reference before the Labour Court and Joginder Singh -Inspector appeared in support of the case of the management. He stated that the services of the workman had not been terminated and he was paid for the days he actually worked. He further stated that the workman had abandoned his job. Parties did not produce any documentary evidence on the record and all that the Labour Court had before it were the two statements - one made by the workman and the other by Joginder

Singh - Inspector. After considering these two statements, the Labour Court came to the conclusion that since the workman had not produced any documents showing that he had presented himself for work or that the management had refused to take him on duty coupled with the fact that he had not produced any letter showing that he ever made any request in writing, he must be held to have abandoned the job. The reference was accordingly answered against the workman and he was held not entitled to any relief.

3. I have heard counsel for the parties at length. The argument of Ms. Sabina is that the Labour Court was not justified in recording a finding of abandonment in the absence of any evidence led by the Department in this regard. I find merit in this contention. A mere look at the impugned award would show that the Labour Court has not properly dealt with this aspect of the matter. It has overlooked a very material fact that the workman had served demand notice on January 7, 1984 when he claimed his services were terminated two days prior to that. This being so, it cannot be said that by remaining absent for about a week, the workman had abandoned his employment. It is not a case where there has been long absence on the part of the workman from which it could be inferred that he had no intention of coming back to the employer. The onus of proving abandonment is on the party who alleges the same and the Department not having led any evidence whatsoever except a bald statement of the Inspector to the effect that the petitioner had abandoned his job, it cannot be said that the plea stands proved. The Labour Court has not even noticed the fact that the petitioner had worked from May 8, 1982 to January 5, 1984 and persons junior to him had been retained by the Department. These facts were admitted by Joginder Singh - Inspector when he appeared as MW1 before the Labour Court. Although the initial burden of proving the validity of his termination lay on the petitioner, in my opinion, the onus stood discharged when it was proved on the record that he had worked for more than 240 days and the provisions of Section 25-F of the Act had not been complied with. It must therefore, be held that the services of the petitioner were not validly terminated and that he is entitled to reinstatement.

4. As regards the back wages, I am of the opinion that being a daily wager and not having worked since January, 1984 when his services were terminated, he is not entitled to full back wages. The ends of justice would be adequately met if respondent 1 and 2 are directed to pay to him a lump-sum amount of Rs. 10,000/- towards the wages.

5. In the result, the writ petition is allowed and the impugned award of the Labour Court quashed. Respondents No. 1 and 2 are directed to reinstate the workman within one month from the date of receipt of a copy of this order and pay him a consolidated sum of Rs. 10,000/- towards back wages. There is no order as to costs.