
(2016) 03 P&H CK 0058
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 27242 of 2015

Ram Kishan Sharma

APPELLANT

Vs

Presiding Officer and another

RESPONDENT

Date of Decision : 31-03-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 2(s)

Citation : (2016) 149 FLR 892 : (2016) LabLR 511

Hon'ble Judges : Sabina, J.

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sabina, J. - Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of Certiorari for quashing the award dated 18.03.2015 (Annexure P-3).

2. Petitioner had raised an Industrial dispute challenging his termination by serving a demand notice. The appropriate Government referred the dispute for adjudication to the Industrial Tribunal-cum-Labour Court, Hisar.

3. The case of the petitioner, in brief, was that he had joined the services of respondent-college as a Peon/Chowkidar on 10.12.1998. Petitioner also performed the duties of Pujari. Petitioner had worked upto 01.11.2011 and his services were verbally terminated w.e.f. 01.11.2011 without complying with the mandatory provisions of Industrial Disputes Act, 1947.

4. Respondent No. 2, in its written statement averred that the petitioner had been appointed as Pujari on part time basis and was assigned to look after the Temple situated near the entrance gate of the College. It was denied that the petitioner was ever appointed as a Peon/Chowkidar.

5. On the pleadings of the parties, following issues were framed by the Industrial Tribunal-cum-Labour Court:-

"1. Whether the termination of services of the petitioner is legal or not? If so, to what relief he is entitled to? OP Parties

2. Relief."

6. Parties led their evidence in support of their respective pleas.

7. The Industrial Tribunal-cum-Labour Court vide award dated 18.03.2015 dismissed the reference sought by the petitioner. Hence, the present petition by the petitioner workman.

8. Learned counsel for the petitioner has submitted that the petitioner was appointed as a Peon/Chowkidar and was also looking after the Temple situated in the college premises.

9. In the present case, the case of the petitioner was that he had been appointed as a Peon/Chowkidar by the respondent-College, whereas, the case of respondent college was that the petitioner had been performing the duties of Pujari and was looking after the Temple situated near the entrance gate of the college. Petitioner failed to produce any document on record to establish that he had been appointed as a Peon/Chowkidar by the respondent college. In these circumstances, the learned Industrial Tribunal-cum-Labour Court rightly held that the petitioner had failed to establish that he had been appointed by the respondent-college as a Peon/Chowkidar or that he was performing any additional duty apart from doing the duties of Pujari. Since the petitioner was performing the duties of Pujari in the Temple, Industrial Tribunal-cum-Labour Court rightly held that the petitioner did not fall within the definition of workman and consequently, had rightly dismissed the reference sought by the petitioner-workman.

10. No ground for interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India, is made out.