
(2014) 07 P&H CK 0031
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 12932 of 2014

Ram Sewak

APPELLANT

Vs

Head Master, Govt. Model High School and Others

RESPONDENT

Date of Decision : 09-07-2014

Acts Referred:

Industrial Disputes Act, 1947 — Section 25-F, 25-N

Citation : (2014) 176 PLR 568

Hon'ble Judges : Gurmeet Singh Sandhawalia, J

Bench : Single Bench

Advocate : Amit Khatkar, Advocates for the Appellant

Judgement

Gurmeet Singh Sandhawalia, J.—Challenge in the present writ petition is to the Award dated 09.10.2013 (Annexure P-1) whereby, the Labour Court, Chandigarh has declined the reference and answered the same against the workman. The claim of the workman was that he was appointed as a Gardener (mali) on daily wages in Government Model High School, Sector 26, Chandigarh in April 1993 and worked upto 15.05.2001 and was drawing Rs. 1,000/- per month as wages. His services were terminated without giving any notice under Section 25-F or 25-N of the Industrial Disputes Act, 1947 (in short "the Act") and no inquiry was conducted nor any compensation had been paid in spite of the fact that he had completed 240 days. The juniors had been working and he had approached the Central Administrative Tribunal but with no success on the ground that it had no jurisdiction.

2. The respondent-State opposed the claim on the ground that he was engaged as a part time Mali out of the Parent Teachers Association Fund, which was a purely private fund collected from the students by the Chairman of the Parent Teachers Association (in short "PTA") and he was not an employee of the school. Initially, he had been paid Rs. 225/- per month as wages which was later on raised to Rs. 1000/- per month and he worked upto July, 2000. The school was taken over by the Police Department, U.T., Chandigarh and his services were

dispensed with as they were no longer required. No juniors had been working with the management.

3. The workman stepped into the witness box as AW-1 and examined Manjit Singh, Retired Headmaster of the school as AW-2 whereas, the State examined Sh. Shekhar Chander, Headmaster as MW-1.

4. The whole case of the petitioner revolves around a certificate dated 15.05.2000 (Annexure P-2) issued by AW-2, the then Headmaster.

5. A perusal of the said certificate would go on to show that the said person was working on daily wages in the Government Model High School since 1993 and was drawing Rs. 1,000/- per month and was an obedient, loyal and punctual person. The said certificate has been rightly discarded by the Labour Court on the statement of the Headmaster wherein, it was clarified that he was competent to issue the certificate on behalf of the PTA and not as an Headmaster of the School and on the ground that there was no dispatch number. The Labour Court came to the conclusion that the appointments would come under the control of the Director, Public Instructions, U.T., Chandigarh, who would be the appointing authority and the Headmaster had no power to appoint. Accordingly, it was held that there was no relationship of employee and employer between the workman and the management and, therefore, reference was not maintainable against the school and accordingly, issue No. 2 was decided against the petitioner workman.

6. Counsel for the petitioner has vehemently submitted that the petitioner had worked for more than 8 years and his services have been dispensed with without granting him any compensation and he had completed 240 days.

7. The argument of the counsel though invokes sympathy, but legally, cannot be accepted as admittedly, in the absence of the relationship inter se the petitioner-workman and the U.T., Administration. No relief can be granted as there has been no retrenchment or termination of services by the U.T. Administration and, therefore, it cannot be held liable for any lapse on account of some unauthorized acts of its employees. A categorical stand has been taken that the petitioner had been employed out of the PTA fund and, therefore, a private arrangement was made and the petitioner was working as such. Nothing has been brought on record to show that the petitioner drew any salary from the funds of the U.T. and thus, the relationship of the employee-employer could not be proved.

8. Accordingly, no fault can be found in the findings on issue No. 2 that the reference was not maintainable. Resultantly, in view of the said fact, the compliance of the provisions of the Act would not come into play. The PTA was never arrayed as a party and no relief was sought against it. Even otherwise, such a loosely strung association would not be termed as an "industry" which would entitle the petitioner to file claim against the same. In view of the school having been transferred to the police department, the petitioner's services were dispensed with, as has been noticed and thus, he was aggrieved. In view of the above discussion, no fault can be found in the well reasoned award passed by the

Labour Court and the present writ petition is dismissed in limine.