
(2011) 03 P&H CK 0222
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 15569 of 2004

State of Haryana and Others

APPELLANT

Vs

Anil Kumar and Another

RESPONDENT

Date of Decision : 18-03-2011

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(1), 2, 25F, 25G, 25H

Citation : (2011) 03 P&H CK 0222

Hon'ble Judges : Mahesh Grover, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mahesh Grover, J.—The State of Haryana has impugned the award of the Labour Court, Rohtak dated 12.3.2004. The Respondent/workman claimed a reference u/s 10(1)(c) of the Industrial Disputes, Act, 1947 (hereinafter referred to as the Act to the following effect:

Whether termination of services of Shri Anil Kumar is justified or not, to what relief he is entitled to?

2. The Respondent/workman had raised a demand on 19.9.2000 and alleged that he was appointed as a Water Carrier in the office of S.D.E.O.,Bhiwani on 23.12.1996 and his work and conduct was satisfactory, but despite that, his services were terminated on 31.3.2000 verbally and without assigning any reason. He pleaded that he was appointed against a regular post and had completed more than 240 days of service and his termination was illegal without complying with the provisions of Section 25F of the Act. He further pleaded that since persons juniors to him have been permitted to work, therefore, there was violation of the provisions of Section 25G and 25H of the Act.

3. The Petitioner/management pleaded that the Respondent was appointed only as a Part-Time Water Carrier only for 1-1/2 hours per day. He was appointed only for 10 months in a year. After this period he was free to do any other work. The

Petitioner pleaded that it was not an industry and the Respondent was not a workman. It was also pleaded that the Respondent had not completed 240 days of service.

4. The Tribunal concluded that the Respondent/workman had completed 240 days of service and his termination was illegal and it was done without compliance of the provisions of the Act. It was further held that Petitioner is an industry under the Act. It then directed reinstatement of the Respondent/workman along with 50% of the back wages from the date of demand notice.

5. Aggrieved by the same, the present writ petition has been filed.

6. The question which has been raised herein was referred to the Full Bench in C.W.P. No. 4660 of 1999 and in the admission order, the petition was ordered to be listed after the decision of the Full Bench.

7. The Full Bench of this Court has since rendered the decision on 22.5.2008 and it has been concluded as under:

In view of the facts mentioned above, we conclude that a part time worker would fall within the definition of a workman as postulated u/s 2(s) of the I.D. Act. However, nature of his employment will be that of a contractual employee and employer be at liberty to terminate him and his termination would not entitle him to get any benefit under the provisions of Chapter VA and VB of the I.D. Act. It is further clarified that to enforce rights and obligations arising under contract of employment, may be in writing or oral, the part time worker may invoke the provisions of I.D. Act other than contained in Chapter VA and VB of the Act.

8. In view of the aforesaid, when there is no dispute that the Respondent/workman was working on part time basis and in view of the observations made by the Full Bench, as extracted above, I am of the opinion that the writ petition deserves to be allowed and the impugned award deserves to be set aside.

9. Ordered accordingly.