
(2001) 07 P&H CK 0098
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 6037 of 1999

Surinder Singh

APPELLANT

Vs

Presiding Officer

RESPONDENT

Date of Decision : 19-07-2001

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 10(1), 25

Citation : (2001) 07 P&H CK 0098

Hon'ble Judges : S.S. Nijjar, J

Bench : Single Bench

Advocate : Mr. H.N. Mehtani, for the Appellant;

Final Decision : Dismissed

Judgement

S.S. Nijjar, J.—The petitioner, in this petition under Articles 226/227 of the Constitution of India, seeks a writ of Certiorari quashing the award dated 18.11.3998, Annexure P-6, passed by the Presiding Officer, Industrial-Tribunal-cum-Labour Court, Panipat, in which the reference has been answered against the workman-petitioner holding that he is not entitled to any relief.

2. According to Mr. Mehtani, learned Counsel appearing for the petitioner, the workman-petitioner joined service of S.M. Hindu Senior Secondary School, Sonapat (hereinafter referred to as the Management), as Mali, on 10.8.1981. His services were terminated on 10.4.1984. He was re-employed in the school as Gardener on 14.1.1991. When he was working in the school between the period i.e. from 10.8.1981 to 10.8.1984, he had not been paid any dear-ness allowance. Now, when the workman-petitioner had been re-employed, he had moved an application to the Principal of the school for payment of dearness allowance for the period from 10.8.1981 to 10.8.1984. Instead of paying the workman-petitioner dearness allowance, his services were terminated without complying with the principle of natural justice or provisions of the Industrial Disputes Act. He had neither been given any notice prior to the termination nor

paid any compensation as required u/s 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). The workman-petitioner sent a demand notice on 5.7.1993. The appropriate Government made a reference to the Tribunal u/s 10(1)(c) of the Act.

3. The workman-petitioner filed a statement of claim stating therein facts narrated above. On the completion of the pleadings, the Tribunal framed an issue as per the terms of the reference.

4. Both the parties led their respective evidence. The Tribunal after appreciating the evidence of both the parties, has come to a conclusion that the workman-petitioner has failed to prove that he had worked for 240 days in a year preceding the termination of his service.

5. Mr. Mehtani has pointed out that the workman-petitioner had placed on record, a photograph taken in the year 1993 which shows that the workman-petitioner was present in the school. According to the learned Counsel, this vital piece of evidence has been ignored by the learned Tribunal. Learned counsel also pointed to an application for summoning of witnesses in which he had sought that the Principal of the school be summoned. Learned counsel also pointed out, that the workman-petitioner had sought production of the following records :-

"Summoned Records "

List of documents.

1. The complete record of the photos printed in the magazine Jalaz.

Jalaz (26.4.1993).

2. The record pertaining to the employees viz. the attendance register, payment of salary register and the record of wheat loan pertaining to the years 1991, 1992 and 1993."

6. After hearing the learned Counsel for the parties and perusing the award, I am unable to agree with the submissions made by Mr. Mehtani. A perusal of paragraph 9 of the award clearly shows that there is evidence to the effect that the workman-petitioner was appointed as Gardener in the year 1993 and he had worked only upto 24th April, 1993. The register which was summoned to be produced in the application mentioned above, was actually produced. This register was put to the witness. In cross-examination it was suggested that the register which has been produced, had been prepared fictitiously subsequent to the raising of the industrial dispute. A number of other suggestions were also put. It was not denied that the petitioner can be seen in the photograph. It is, however, denied that he was appointed on 14.1.1991. The Tribunal has observed that the workman-petitioner had not examined the photographer who could perhaps put a date on the photograph. I am of the considered opinion that the award does not suffer from any error apparent on the face of the record. It is settled proposition of law that this Court in its exercise of the jurisdiction under

Articles 226/277 of the Constitution of India, would only interfere in the findings of fact if they are based on no evidence or are perverse on the face of it. In the present case, the award has been given after appreciating the evidence led by both the parties. The writ petition is dismissed. No costs.

7. Petition dismissed