
(1995) 01 P&H CK 0066
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Side No. 2119 of 1993

The State of Punjab and Another	Vs	APPELLANT
Sh. Chhedi Lall and Another		RESPONDENT

Date of Decision : 02-01-1995

Acts Referred:

Industrial Disputes Act, 1947 — Section 2, 25F

Citation : (1995) 110 PLR 31

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

Bench : Single Bench

Advocate : Arihant Jain, AAG, for the Appellant; Arun Palli, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Sodhi, J.—This petition under Article 226 of the Constitution has been filed by the State of Punjab through the Deputy Director, Animal Husbandry (Training) and the Director, Animal Husbandry challenging the award of the Labour Court, Patiala dated 10.6.1992 whereby the workman-respondent was found entitled to reinstatement in service with full back wages.

2. The first respondent (for short, the workman) was employed in the office of the Deputy Director, Animal Husbandry (Training) Patiala as a gardener on daily wages drawing wages of Rs. 510/- per month as per the rates fixed by the Deputy Commissioner. It is common case of the parties that the workman joined on 25.9.1986 and his services were terminated with effect from March 30, 1988. On an industrial dispute raised by the workman the same was referred for adjudication to the Labour Court, Patiala. After recording evidence of the parties, the Labour Court found that the workman had put in more than 240 days of service prior to the date of termination of his services and that the termination was made without complying with the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter called the Act). The termination was, therefore, held invalid and he was directed to be reinstated with full back wages. This award is the subject matter of challenge in the present petition.

3. Mr. Jain, learned Assistant Advocate General appearing for the petitioners while challenging the impugned award submitted that since the workman had not put in 240 days of service immediately preceding the date of his termination, he was, therefore, not entitled to any relief. In support of this submission, he pleaded reliance on Annexure P-3 which is Exhibit M2 on the record of the Labour Court. As per this document, the workman did not work during the months of October, November and December, 1987. He also did not work in January, 1988 and attended to his duties only with affect from February 10, 1988. He continued working till March 29, 1988 whereafter he has not worked and claims that his services were terminated. If one were to rely on the document Exhibit M2 (Annexure P-3 with the writ petition) the argument of the petitioner would have to be accepted. However, in my opinion, this document does not depict the true picture and no reliance can be placed thereon. It is the admitted case of the parties that services of the workman were earlier terminated on 30.9.1987 and he was not allowed to work thereafter. When he served a demand notice conciliation officer initiated conciliation proceedings in which a settlement was arrived at between the parties. This settlement is annexure RI with the written statement filed by the workman and is also on the record of the Labour Court. In pursuance of this settlement, the workman was taken back on duty w.e.f. February 10, 1988 with continuity of service. Since the workman had not worked from October 1, 1987 till February 9, 1988, he has been marked absent in the muster roll and it is for this reason that document Exhibit M2 shows that he did not work during this period. When the settlement between the parties was to reinstate the workman with continuity of service, the period from October 1, 1987 to February 9, 1988 during which he had not worked will have to be counted towards his service. If this is done he completes more than 240 days. It is again not disputed that provisions of section 25F of the Act had not been complied with. In this view of the matter, the Labour Court, was therefore, justified in directing the reinstatement of the workman with full back wages.

4. It has been half heartedly argued by Assistant Advocate General that the impugned award deserves to be quashed on the ground that the Department of Animal Husbandry where the petitioner was working was an educational institution and was not an "industry" within the meaning of section 2(j) of the Act. This argument is being noticed only to be rejected in view of the authoritative decision of their Lordships of the Supreme Court in Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and Others, where an educational institution has been held to be an industry.

5. Before concluding it may be mentioned that during the pendency of this petition the workman had filed an application u/s 17-B of the Act claiming the last drawn wages in terms of that provision, Undoubtedly, he is entitled to the wages as claimed by him.

6. In the result, there is no merit in the petition and the same stands dismissed. The petitioners are directed to pay to the workman his last drawn wages in terms

of section 17-JJ of the Act within three months from the date of receipt of this order. The first respondent will have his costs which are assessed at Rs. 1000/-