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**(2011) 03 P&H CK 0224**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : C.W.P. No. 1645 of 2005**

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|------------------------------------------|------------|
| Uttari Haryana Bijli Vitran Nigam Mandal | APPELLANT  |
| Vs                                       |            |
| Moman Ram and Another                    | RESPONDENT |

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**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 0224

**Hon'ble Judges :** Mahesh Grover, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

Mahesh Grover, J.—The Petitioner/Management has impugned the award of the Labour Court, Ambala dated 21.9.2004. A reference was claimed u/s 10(1)(c) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act):

Whether the termination of services of workman Moman Ram is valid and justified? If not, so to what relief is he entitled?

2. The Respondent/workman had raised a demand against the Petitioner/management alleging that he was appointed as a Chowkidar on daily wages from September, 1984 to 18.7.2001 regularly. He had completed the duty for more than 240 days in the 12 preceding months, and his work and conduct was satisfactory, but his services were terminated erroneously without complying with the provisions of Section 25F of the Industrial Disputes Act. He further alleged that the persons junior to him were still working and, therefore, there has been violation of the provisions of Sections 25G and 25H of the Act.

3. The Petitioner/management set up a plea that the Respondent was not a workman within the definition of the Act and that he was engaged as Part Time Water Carrier on 16.4.1984. He worked upto 28.2.1993. He served as a Part Time Mali from 1.3.1993 to February, 1997 and Part Time Chowkidar from 1.9.1997 to 7.1.1998. Again, he worked as a Part Time Chowkidar from

20.3.1998 to 18.7.2001, but with breaks. After 18.7.2001, the sanction to engage him was not accorded by the concerned authority, so he could not be employed thereafter. He had not completed 240 days of service. They pleaded that the provisions of the Act were neither attracted, nor violated. It was specifically pleaded that no person junior to the Respondent was working with the management.

4. The Tribunal answered the reference in favour of the workman by holding that he had completed more than 240 days in the 12 preceding months and ordered his reinstatement with continuity in service, but without back wages.

5. The question which has been raised herein is as to whether a part time employee like the Respondent/workman was entitled to the benefits of the Industrial Disputes Act and whether a part time worker who comes within the definition of Section 2(s) of the Act, can also be treated to be a workman within the meaning of the Act, so as to be held entitled to the benefits of the provisions of the Act in particular the provisions of Chapter IIA & V.B thereof.

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.