

(2001) 07 P&H CK 0069
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 12693 of 2000

Virender Singh

APPELLANT

Vs

Presiding Officer, Faridabad

RESPONDENT

Date of Decision : 12-07-2001

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 25

Citation : (2001) 07 P&H CK 0069

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

Bench : Single Bench

Advocate : Mr. Lokesh Sinhal, for the Appellant; Mr. N.B. Joshi and Mr. Manu Bhandari, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Nijjar, J.—This petition under Articles 226/227 of the Constitution of India seeks issuance of a writ of the certiorari quashing the award dated 7.2.2000 passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court-I (hereinafter referred to as "the Tribunal"), Faridabad.

2. The petitioner, according to demand notice, states that he was appointed as Typist on 17.5.1988 by the management. His last drawn wages were Rs. 1175/- per month. The Management without issuing any notice or charge-sheet or any compensation u/s 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act") terminated his service from 13.1.1994. Consequently, the dispute was referred u/s 10(1) of the Act by the appropriate Government. On the pleadings of the parties, the Labour Court framed two issues on 18.5.1995. The first issue was in terms of the reference, which was :-"whether there is justification in the termination of services of Virender Singh and if not, to what relief he is entitled to ?". Issue No. 1 has been decided against the petitioner and it has been held that he is not entitled to any relief. The Tribunal after appreciating the evidence led by the parties has returned a finding of fact that

the petitioner was not a workman. It has been found that the petitioner was working with respondents as an independent Contractor.

3. Learned counsel of the petitioner has submitted that award is liable to be set aside as the evidence produced before the Tribunal has been ignored. The Management had placed on record Exhibits M-8/1, M-19/1 showing that the petitioner had been receiving payment as a Contractor in the year 1993. It is also in the evidence of the petitioner that the petitioner had worked as an employee of the respondent upto 9.12.1992. The petitioner had, however, sought to rely on certain salary slips which are said to have been issued to him in the year 1993. These salary slips were, however, not exhibited, in view of the objections raised by the Management. Learned counsel for the petitioner further submitted that if the documents marked "A" to "Z" have been considered by the Tribunal then the conclusion would have been totally different. Document marked "A" is a copy of the conveyance slip. Document marked "B" gives details of the overtime worked by the petitioner. Documents marked "C" and "D" are also details of over time. Similar is the position with documents marked "E" and "F". Documents marked "G", "H" and "I" are copies of the salary slips.

4. Learned counsel for the respondents has, however, submitted that even if this evidence had been brought on the record, the result would have been the same as there is sufficient material on record to show that the petitioner has been working as Contractor.

5. I have considered the submissions made by the learned counsel. A perusal of the award on issue No. 1 clearly shows that the finding has been returned after appreciation of evidence, it is a settled proposition of law that this court while exercising its jurisdiction under Articles 226/227 of the Constitution of India would not examine the finding of the fact in the same manner as they would be examined by the Court of Appeal. This Court exercises only supervisory jurisdiction under Articles 226/227 of the Constitution of India. Before this Court can interfere in the award, the petitioner has to establish an error apparent on the face of the record. Merely because this Court would come to a conclusion different to the conclusion arrived at by the Tribunal would be no justification to interfere in the finding of fact returned by the Labour Court. It is also not possible to interfere in the award on the ground that there was insufficient material to support the findings of the Tribunal, This Court would interfere in the finding of the fact recorded in the award only if they are found to be based on no evidence or are perverse by their very nature. I find that the finding recorded by the Tribunal is based on some evidence. Consequently, I find no merit in the petition and the same is dismissed. No order as to costs.

6. Petition dismissed.