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PUNJAB STATE ELECTRICITY BOARD AND ORS.

v.

INDERJIT SINGH

MAY 29, 2007

B

[DR. ARIJIT PASAYAT AND LOKESHWAR SINGH PANTA, JJ.]

Labour Laws:

C

Termination—Allegation by workman that his services were illegally dispensed with from 30-04-1997 onwards— He Claimed that he had worked continuously from 31.03.1993 to 30.04.1997—Labour Court held termination of workman was illegal and directed re-instatement—Order upheld by High Court—On appeal, held: Contrary to statement made in claim petition, workmen in his evidence before Labour Court categorically admitted that he was appointed on 1.4.1996—Also, evidence tendered by workman contradictory in terms—Appointment w.e.f. 31.3.1993 not established—Order of reinstatement set aside.

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Respondent-workman raised industrial dispute alleging that his services were illegally dispensed with from 30.04.1997 onwards. He claimed that he had been continuously working from 31.03.1993 to 30.04.1997. Labour Court held that Respondent was entitled to be reinstated with continuity of service alongwith 50% back wages. Appellant-Board filed writ petition before High Court which was dismissed. Hence the present appeal.

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Allowing the appeal, the Court

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HELD: In the claim petition it is stated that Respondent worked continuously under the management from 31.3.1993 to 30.4.1997. But in his evidence before the Labour Court, he has categorically admitted that he was appointed on 1.4.1996. No detail of the vocational training has been tendered in evidence. It was also not stated in the claim petition or in evidence as to who sent the respondent for training. There is not even reference to the so called vocational training in the claim petition. Also the evidence tendered by the respondent was contradictory in terms. At one place he stated that he got vocational training for a period from 31.3.1993 to 30.4.1995. At another

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place the respondent stated that after completion of apprenticeship of two years he was appointed. No material has been brought on record to substantiate the claim of apprenticeship. Above being the position orders of the Labour Court and the High Court are clearly unsustainable and are set aside.

[Paras 7, 8 and 9] [828-F, G, H; 829-A, B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1255 of 2007. B

From the Final Judgment and Order dated 11.07.2005 of the High Court of Punjab & Haryana at Chandigarh in C.W.P. No. 10261 of 2005.

Harinder Mohan Singh and Kaushal Yadav for the Appellants.

Delhi Law Chambers for the Respondent. C

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J. 1. Challenge in this appeal is to the order passed by a Division Bench of the Punjab and Haryana High Court dismissing the writ petition filed by the appellant-Punjab State Electricity Board (for short 'the Board'). D

2. Background facts in a nutshell are as follows:

3. Respondent made a complaint that though he continued to work as a Carpenter, his services were illegally dispensed with from 30.4.1997 onwards. On the failure of conciliation proceedings, the dispute raised by the respondent was referred for adjudication to the Presiding Officer, Labour Court, Patiala (hereinafter referred to as the 'Labour Court'). By award dated 22.2.2005, the Labour Court held that the termination of the services of the respondent was illegal and he was entitled to be re-instated with continuity of service and also was entitled to receive 50% of the back wages. It was further directed that if the amount is not paid to the respondent-workman, he was entitled to interest on the said amount. The reinstatement was directed to be done on the workman reporting for duty. E F

4. In a nutshell the stand of the workman was as follows: G

He was working with the management in the maintenance sub-division as carpenter from 31.3.1993 to 30.4.1997. His duty was at the residential and other buildings of the management. The work was assigned to him by Junior Engineer Daulat Ram. The said Junior Engineer had issued several documents H

A from which it is clear that he was working as claimed. The workman examined himself as a witness. Management produced several documents to show that the claim was absolutely frivolous. The claim that the workman was working w.e.f. 31.3.1993 to 30.4.1997 continuously was without any basis. It was further submitted that Daulat Ram was not officially competent to give any certificate as claimed to have been issued by him. The High Court accepted B the claim of the workman that he was continuously working from 31.3.1993 to 30.4.1997. Accordingly, the writ petition was dismissed.

C 5. In support of the appeal, learned counsel for the appellant submitted that the High Court has lost sight of the fact that the workman has not adduced any evidence to establish that he was appointed w.e.f. 31.3.1993. On the contrary, he accepted that he received wages for the period from 1.4.1996 to 30.4.1997 after putting the signatures on the muster roll. He has categorically stated that he was appointed as a Carpenter by the respondent-management on 1.4.1996. It is also stated that muster rolls were produced for the entire period which clearly indicated that he had not worked for the period he D claimed to have worked.

6. Learned counsel for the respondent on the other hand submitted that the statement of the witness i.e. the claimant and the materials on record clearly substantiate claim of the respondent.

E 7. At this juncture, it would be necessary to take note of the averments made by the claimant. In the claim petition it is stated that he worked continuously under the management from 31.3.1993 to 30.4.1997. But in his evidence before the Labour Court, he has stated as follows:

F "I got vocational training for the period 31.3.1993 to 30.4.1995. I was appointed as carpenter by the respondent management on 1.4.1996. I used to get my wages after putting my signature on the revenue stamp affixed on the muster roll. I have received my wages for the period 1.4.1996 to 30.4.1997. After completion my apprenticeship of two years, I was appointed as carpenter on 1.4.1996 by the SDO. No G written appointment letter was issued as I was employed on daily wage basis."

H 8. Thus there is categorical admission that he was appointed on 1.4.1996. No detail of the vocational training has been tendered in evidence. It was also not stated in the claim petition or in evidence as to who sent the respondent for training. There is not even reference to the so called vocational

training in the claim petition. It is also to be noticed that the evidence A
tendered by the respondent was contradictory in terms. At one place he
stated that he got vocational training for a period from 31.3.1993 to 30.4.1995.
Nothing has been stated for the period from 1.5.1995 to 31.3.1996. At another
place the respondent stated that after completion of apprenticeship of two
years he was appointed. No material has been brought on record to B
substantiate the claim of apprenticeship.

9. Above being the position, orders of the Labour Court and the High
Court are clearly unsustainable and are set aside. The appeal is allowed
without any order as to costs.

B.B.B.

Appeal allowed. C