

SUPREME COURT OF INDIA

State of Haryana

Vs.

Madan Lal

C.A.No.1904 of 2008

(Ashok Bhan and Dalveer Bhandari, JJ.)

11.03.2008

ORDER

(Arising out of SLP(C) No.7777/2006)

1. Leave granted. Respondent, (hereinafter referred to as 'the workman'), was engaged on 05.05.1999 as Chowkidar in the Department of District Food and Supplies Controller, Fatehabad (Haryana). His services according to the appellant-management, (hereinafter referred to as 'the Management'), were terminated on 29.02.2000 whereas according to the workman his services were terminated on 16.04.2000 as he continued to discharge his duties till 15.4.2000. He served a demand notice under Section 2-A of the Industrial Disputes Act, 1947 (for short 'the Act') demanding reinstatement in service with continuity of the service and full back wages. Conciliation efforts were made but as they did not succeed, a reference was made by the Management to the labour Court for adjudication of the following dispute: "Whether the termination of services of Madan Lal is justified and valid? If not, alongwith reinstatement, to what amount of back wages, he is entitled to?" On the pleadings of the parties, the following five issues were framed: "1.As per terms of reference?

2. Whether the reference is bad for misjoinder and non-joinder of necessary parties?

3. Whether the petitioner has no locus-standi? 4. Whether Respondent Department is not 'industry'? 5. Relief." During the course of arguments, issues Nos. 1 & 3 were only pressed. Issue Nos. 2 & 4 were not pressed. According to the workman, he had worked for 240 days and his services had been terminated without complying with the mandatory provisions of Section 25F of the Act. As against this, the case put forth by the Management was that the workman had worked only for 220 days i.e. from 8.5.1999 to 29.02.2000 whereas according to the workman he had worked up to 15.4.2000. The workman produced a copy of the duty roster as exhibit W4 running into 23 pages. As per this document, the workman had worked up to 15.04.2000. MW1 Bir Singh, District Food & Supply Controller, Fatehabad in his cross-examination admitted that the department was maintaining the duty roster in respect of chowkidars. In spite of being asked to produce the original duty roster, Management did not produce the original duty roster. The labour court drew an adverse inference against the

management and held that the workman had worked for more than 240 days and his services had been terminated without complying with the mandatory provisions of Section 25F of the Act. Accordingly, the labour court answered the reference in favour of the workman and against the management and directed reinstatement with continuity and all other consequential service benefits along with 50% back wages. Management, being aggrieved, filed writ petition in the High Court which has been dismissed by the impugned order. The High Court has passed a detailed order affirming the findings recorded by the labour court. The findings recorded by the courts below are findings of fact which do not call for interference. The Appeal is dismissed accordingly. No costs.