SUPREME COURT OF INDIA

Municipal Corporation Faridabad

Vs.

Durga Prasad

C.A.No.1993 of 2008

(Dr.Arijit Pasayat and P.Sathasivam,JJ.)

14.03.2008

JUDGMENT

Dr. Arijit Pasayat, J.

1. Leave granted.

2. 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 present appellant. Challenge in the writ petition was to the order passed by the Presiding Officer, Labour Court 1, Faridabad.

3. Background facts in a nutshell are as follows:Respondent claiming to have been appointed by the appellant as a baildar in December, 1991 alleged that while working with the appellant, had met with an accident and FIR was lodged. Respondent could not attend the duties and the reasons for the absence were within the knowledge of the management of the appellant. The management was also requested to provide for reimbursement of medical aid to the claimant who was admitted in the hospital and continuously long thereafter. The accident in question occurred on 21.8.1992. Accordingly a claim petition was filed. The prayers made in the claim petition were resisted by the present appellant. It was stated that as per official records respondent had only worked for 179 days. The Labour Court did not accept the plea and held that respondent had worked for more than 240 days. The award was challenged before the High Court. However, the High Court dismissed the writ petition holding that the services have been illegally terminated and therefore the respondent was entitled to full back wages. It was held that back wages is the normal rule and party objecting to it must establish the circumstances necessitating departure.

The High Court placed reliance on a Full Bench decision of Punjab and Haryana High Court in Hari Palace, Ambala City v. The Presiding Officer, Labour Court and Anr. (Punjab Law Report, Vol. LXXXI-1979, 720).

4. In support of the appeal learned counsel for the appellant submitted that there was no material whatsoever placed by the claimant before the Labour Court that it was appointed towards any sanctioned post and was entitled to full back wages. It was also submitted that official records clearly established that he had worked for 179 days. Holidays have wrongly been taken into account. Even then the number of days does not exceed 210 days.

5. Learned counsel for the appellant further submitted that since no reason has been indicated the impugned order cannot be maintained. The High Court has recorded an abrupt conclusion without any material. It is submitted that the case should not have been decided merely placing reliance on some other decision without even indicating as to how the factual scenario is the same.

6. Learned counsel for the respondent on the other hand supported the judgment of the Labour Court and the High Court.

7. It seems that the High Court has not analysed the factual position and has come to an abrupt conclusion by relying on some earlier decision to hold that the appellant was not entitled to any relief. The approach is certainly casual. It is to be noted that one of the major grounds urged was that the onus was wrongly placed on the appellant to show that the respondent had not worked for 240 days continuously.

8. In the circumstances, we set aside the impugned order of the High Court and remit the matter to it for fresh consideration in accordance with law.

9. Appeal is allowed.