



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7577-2005(O&M)

Reserved on:22.01.2026

Pronounced on:16.04.2026

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Salik Ram

....Petitioner

Versus

The Presiding Officer, Labour Court, Ludhiana, and others

....Respondents

2)

CWP-8780-2005 (O&M)

Ram Parshad

....Petitioner

Versus

The Presiding Officer, Labour Court, Ludhiana, and others

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Sumeet Jain, Advocate, (Legal Aid Counsel),
for the petitioners-workmen (in both cases).

Mr. Sanjeev Sharma, Advocate,
for respondents No.2 to 4.

KULDEEP TIWARI, J.

1) Since awards of even date, rendered by the same learned Labour Court on identical issues, are assailed, learned counsel for the parties are *ad idem* that these writ petitions are amenable to be decided together. Accordingly, both the cases are taken up together. However, for the facility of reference, facts are being derived from CWP-7577-2005.

2) Having received a negative response to his reference, under Section 10(1)(c) of the Industrial Disputes Act, 1947, (for short, 'the



Act), vide impugned award dated 02.03.2004, the petitioner-workman has approached this Court by instituting the instant writ petition under Article 226/227 of the Constitution of India.

3) Before proceeding further, it is pertinent to mention that when the matter was taken up on 10.11.2025, no one was present on behalf of the petitioner. The position was not any different even on the previous occasion. Therefore, with a view to adjudicate the matter conclusively, which was filed two decades ago, this Court appointed Mr. Sumeet Jain, Advocate, as Legal Aid Counsel, to assist on behalf of the petitioner-workman.

4) In a bid to lay foundation to his submissions, learned counsel for the petitioner initiated with the assertion that there is no distinction or categorization with respect to the workman. The source of employment, method of recruitment, contract of service, quantum of wages/pay and mode of payment are not the relevant factors for determination of the issue, as to whether, a person falls within the meaning of Section 2 (s) of the Act. In this regard, he relied upon a decision rendered by the Hon'ble Supreme Court in **Devinder Singh Vs. Municipal Council, Sanaur, 2011, 6 SCC 584.** Accordingly, he contended that the learned Labour Court grossly erred in law, while answering the reference against the petitioner. He further submitted that long-term engagement of a Daily Paid Worker to perform the duty of perennial nature ought to have been factored in, along with other essential aspects, while analysing the termination order of a workman. However, in the matter at hand, the learned Labour Court failed to



appreciate crucial aspect in its right perspective. In this regard, he placed reliance on a judgment of the Hon'ble Supreme Court in **Dharam Singh and others Vs. State of U.P. and another, 2025 AIR Supreme Court 3897.** He invited attention of this Court towards the claim statement, which was eventually culminated into reference, and submitted that it was categorically pleaded that juniors to the petitioner, in the same category, were retained, besides appointing new candidates, post termination of his services, and that too, without issuance of any prior notice. Thus, it is a crystal-clear case of violation of Section 25-G and H of the Act, thereby, entitling him for the relief of reinstatement:-

“b) That my juniors in the same category were retained in service and other employees of same category are being appointed after the termination of my services without sending me prior notice. Thus the respondents have violated the mandatory provisions of section 25-G and 25-H of the I.D.Act.”

5) While concluding, he took this Court through the written statement filed by the respondent-Management, particularly para 7 thereof, to urge that claim of the petitioner was denied only on the ground that since the petitioner was engaged as a Daily Paid Labour, he, by any stretch of imagination, cannot be said to be covered within the ambit of 'workman'. So much so, the Management nowhere controverted the assertion of the petitioner regarding retaining of his juniors:-

“7. That the facts as mentioned in para 10 of the statement of claim is wrong and hence denied. As per latest pronouncement of the Supreme Court, Section 25F is not applicable to a DPL and the burden lies heavy on the person to prove what he had pleaded.”



6) *Per contra*, learned counsel for the respondent-Management submitted that apparently, the claim put forth by the petitioner is bereft of any legal foundation, as he failed to establish that he had worked for 240 days in the preceding calendar year. He further submitted that the Department had never prepared any seniority list of the Daily Paid Labourers. Accordingly, the petitioner, under no circumstances, can take refuge of the plea that juniors to him were retained or employed, post his alleged termination. Furthermore, the respondent-Management was not bound to maintain the seniority list of the employees engaged on Daily Paid Workers. He next contended that even the petitioner failed to prove on record any seniority list, thereby, strengthening him to impress upon the claim of violation of Section 25-G and H of the Act, on the part of the Management. He concluded by referring to the following decisions drawn by the Hon'ble Supreme Court as well as by this Court in:-

- 1. *Surendranagar District Panchayat Vs. Dahyabhai Amarsinh, 2006 AIR Supreme Court 110;***
- 2. *Punjab State Electricity Board and another Vs. Presiding Officer, Industrial Tribunal and another, 2019 (3) PLR 156***
- 3. *Sh. Bikram Singh Vs. The Executive Engineer, PWD, Public Health Division, Division Jhajjar and another, (CWP-5077-2012, decided on 05.12.2014).***

7) Before advertng to the arguments advanced on behalf of the contesting parties, a concise recital of the undisputed factual narration, which led the parties to the current stage, shall be imperative.



8) The petitioner was hired to render services as a Tubewell Driver to the respondent-Punjab Agricultural University, w.e.f. 10.09.1986, @ Rs.40 per day, and was designated as Daily Paid Labourer. Further, since the petitioner had been in service for a considerable long period, and was not being made permanent, he, alongwith other employees, served the Management with a representation dated 20.02.1990 (Annexure P-1), which failed to evoke any response. Whereafter, he, alongwith other similarly situated employees, had approached this Court by way of CWP-2338 of 1990. Accordingly, a Division Bench, vide order dated 16.02.1990 (Annexure P-2), disposed of the writ petition with a direction to the respondent-Management to decide the representation within six months. Further, it was also directed to maintain a *status quo* regarding service of the petitioners therein. Proceeding in sync with the abovesaid directions, the Management considered, but rejected the representation, vide order dated 30.07.1990 (Annexure P-3), for the petitioners therein did not possess the prescribed qualifications. Aggrieved by the rejection, they re-accessed this Court by filing a writ petition, i.e. CWP-11415-1990, which was allowed, vide order dated 21.12.1990 (Annexure P-4), and the Management was commanded to re-visit the matter treating the petitioners to be fully qualified for the post of Tubewell Driver. Thereafter, a miscellaneous application (CM-6761-1991) was filed in the abovesaid writ petition, with a prayer to direct the Management to remit the same wages, as were being paid to the regular employees working on the post of Tubewell Drivers, and also to re-consider them for regularization. Thereupon, the



learned Single Bench, vide order dated 02.12.1991 (Annexure P-5), directed the applicants to move the Management with a representation as regards their concerns/grievances, which shall be dealt with, by passing a speaking order. In compliance thereof, the petitioners therein filed a representation dated 12.12.1991 (Annexure P-6), which met the same fate, and was rejected on 07.03.1992 (Annexure P-7). Fetching grievance, the applicants/petitioners therein, moved a miscellaneous application, i.e. CM-2460-1992, in the abovesaid decided petition (CWP-11415-1990), which was dismissed, reserving the liberty to challenge the order impugned therein before an appropriate forum, vide order dated 29.05.1992 (Annexure P-8). Having remained dissatisfied, the petitioner, along with co-employees, moved this Court, once again, vide CWP-11392-1992, seeking a direction for payment of equal wages, which were being paid to the regular employees. The said petition was admitted on 24.03.1992, but eventually, the same was dismissed, vide order dated 18.03.2009. Ultimately, the petitioner raised an industrial dispute, by filing a claim statement, which, as demonstrated above, was referred to the learned Labour Court.

9) Upon notice, the respondent-Management contested the dispute, and filed a detailed written statement, with a preliminary objection that petitioner, being appointed as Daily Paid Labour, did not fall within the purview of 'workman'. In this view of the matter, no relationship of master and servant ever existed between the Management and petitioner. Further, once the petitioner himself ceased to perform his duties after 11.07.1992, there was no question of terminating his services.



It was categorically asserted that petitioner never served the Management continuously for 240 days in the preceding 12 months.

10) Having considered the matter in issue and the evidence led by both the parties, the learned Labour Court came to the conclusion that since the petitioner did not complete 240 days during the preceding 12 months, he lacked the occasion to invoke provision of Section 25-F of the Act.

11) *Ex facie*, what this Court has discerned from a thorough scrutiny of the impugned award, as well as the respective stands putforth on behalf of the rival parties, is that the petitioner did not work for 240 days in the preceding calendar year. Not just that, he also failed to substantiate that his services were terminated on 01.08.1992. Conversely, it has been categorically observed by the learned Labour Court that he did not turn up to report on duty, after 11.07.1992, and he only worked for 2 days in July, 1992. The factual finding recorded by the learned Labour Court with regard to the petitioner having failed to complete 240 days, has a decisive impact upon adjudication of the matter at hand, and the same is extracted hereinafter:-

“11) The petitioner has alleged that he employed with the respondent from 10.9.86 to 31.7.92. No record has been produced by him in that regard. Even the respondents have produced the documentary evidence from 8/90 to 7/92 i.e. for two years. From 8/90 to 7/91, the petitioner worked for 146 days whereas from August, 91 to July, 92, he worked for 116 days. During August and September, 90, there was work. From October, 90 to July, 91, the petitioner worked for 8, 15, 16, 9, 4, 19, 21, 21, 15 and 18 days respectively. A reference to Ex.M/1, M/3, M/7, M/11, M/15, M/20, M/24, M/28, M/32, M/36 and M/40



can be made. Ex.M/1 is the copy of muster roll for August, 90. There is no muster roll for the month of September, 90. If it is assumed for the sake of arguments that the petitioner worked during August and September, 1990 also, even then it can be said that he did not work for 240 days.

12) Similarly, copies of muster rolls from August, 91 to July, 92 as Ex.M/44, M/48, M/52, M/57, M/61, M/65, M/70, M/74, M/79, M/84, M/88 and M/93 have been placed the file. During this period, the petitioner worked for 116 days. Thus he did not work for 240 days from August, 91 to July, 92 and from August 90 to July, 91 i.e. 24 months preceding the alleged date of termination. The learned representative of the petitioner argued that his case is covered by section 25-B(1) of the Act. Both section 25-B(1) and (2) came up for discussion in Mohan Lal Vs. The Management of M/s. Bharat Electronics Ltd. AIR 1981 S.C. 1253. It was held that Sub Section (1) provides deeming fiction. Where a workman is in service for a certain period, he shall be deemed to be in continuous service for that period even if service is interrupted on account of sickness etc. Thus sub section mandates that interruption therein indicated are to be ignored meaning thereby that on account of such cessation an interrupted service shall be deemed to be uninterrupted and such uninterrupted service, shall for the purpose of job, be deemed continuous service.”

12) Upon being pointedly confronted in the context of the abovesaid findings, learned counsel for the petitioner could not point out any perversity or illegality in the impugned award to insist this Court to draw a conclusion other than the one arrived at by the learned Labour Court.

13) Further, inasmuch as the petitioner did not complete 240 days during the preceding 12 months from the date of his alleged termination, the plea of infraction of Section 25-F cannot be allowed to enure to his advantage. To say so, this Court relied upon the



observations made by the Hon'ble Supreme court in **Bikram Singh**

(supra):-

“6. Claim of the workman was of having served upto 1.6.2001. It would be a settled proposition of law that to claim the protection under Section 25-F of the Act, the workman would have to discharge the initial onus of possessing continuous service of 240 days in the 12 preceding calendar months taken from the alleged date of termination i.e. 1.6.2001. Apart from the deposition of the petitioner-workman to such effect and supported by his self-serving affidavit, not even an iota of evidence was adduced by the petitioner with regard to any service pertaining to the relevant period leave alone 240 days of continuous service. The Management in the reply to the claim statement had pleaded that the workman had served from 15.7.1985 to 30.9.1986. Deposition of Management witness MW1 was also to the same effect. Undoubtedly, there was a contradiction on such stand inasmuch as WW2 Ashok Kumar had made a statement before the Labour Court based on the record duly produced that the workman had served upto 30.11.1986 instead of 30.9.1986. Even going by the later date i.e. 30.11.1986 and as per deposition of WW2 Ashok Kumar, the workman did not complete 240 days of service in the preceding 12 months taken from such date. As such, the argument and submission made by the learned counsel for the petitioner in such regard is without any consequence.

xx xx xx xx

8. Since the finding recorded by the Labour Court is of abandonment of service and not that of termination, the contention of the violation of Sections 25-G and 25-H of the Act pales into insignificance.



14) As a consequence of the aforesaid deliberation, this Court is now called upon to examine the issue regarding violation of Section 25-G and H of the Act, if any, on the part of the respondent-Management.

15) Indisputably, the obligation to establish that any seniority list was ever prepared and maintained by the Management was upon the workman. Likewise, the onus to prove that juniors to him were retained in service, or new incumbents were recruited on the post in question, was rested on his shoulders. In this regard, the learned Labour Court unequivocally canvassed that it was the petitioner, who did not come to join services after 11.07.1992, therefore, he is not equipped to make out that his services were terminated by the respondent-Management, leave alone illegally. In this way, he also failed to prove that he was terminated on 01.08.1992. In the matter at hand, the petitioner, while stepping into the witness box as WW1, also could not establish that any seniority list was being maintained by the Management or any junior to him was retained. Rather, he simply denied the suggestion advanced by the respondent-Management that the post of Assistant Tubewell Driver was advertised in the newspaper, and he did not apply therefor, due to lack of requisite qualification. The relevant part of the cross-examination is extracted hereinbelow:-

“....I do not know if the respondents have advertised for the post of Asstt. Tubewell Driver in the Daily Tribuns, Punjab Kesari and Akali Patrika. It is incorrect that I did not apply because I was not having the requisite qualification, ans disclosed in Mark A, B,C,D,E. I am sitting idle in my house. I do not know my house hold expenses per month...”



16) In the absence of any finding, much less positive, as discussed above, this Court has no occasion to give any weightage to the plea that there does exist infraction of Section 25-G and 25-H of the Act. Before leaving the issue, it would be inevitable to have a glance at the observations recorded by the Hon'ble Supreme Court in **Dahyabhai Amarsingh (supra)**:-

“19. In the light of the aforesaid, it was necessary for the workman to produce the relevant material to prove that he has actually worked with the employer for not less than 240 days during the period twelve calendar months preceding the date of termination. What we find is that apart from the oral evidence the workman has not produced any evidence to prove the fact that he has worked for 240 days. No proof of receipt of salary or wages or any record or order in that regard was produced; no co-worker was examined; muster roll produced by the employer has not been contradicted. It is improbable that workman who claimed to have worked with the appellant for such a long period would not possess any documentary evidence to prove nature of his engagement and the period of work he had undertaken with his employer. Therefore, we are of the opinion that the workman has failed to discharge his burden that he was in employment for 240 days during the preceding 12 months of the date of termination of his service. The Courts below have wrongly drawn an adverse inference for non production of the record of the workman for ten years. The scope of enquiry before the Labour Court was confined to only 12 months preceding the date of termination to decide the question of continuation of service for the purpose of Section 25F of the Industrial Disputes Act. The workman has never contended that he was regularly employed in the Panchayat for one year to claim the uninterrupted period of service as required under Section 25B(1) of the Act. In the fact & situation and in the light of the law on the subject, we find that the workman-respondent is not entitled for the protection or



compliance of Section 25F of the Act before his service was terminated by the employer. As regards noncompliance of Sections 25G and 25H suffice is to say that Witness Vinod Mishra examined by the appellant has stated that no seniority list was maintained by the department of daily wagers. In the absence of regular employment of the workman, the appellant was not expected to maintain seniority list of the employees engaged on daily wages and in the absence of any proof by the respondent regarding existence of the seniority list and his so called seniority no relief could be given to him for non-compliance of provisions of the Act. The courts could have drawn adverse inference against the appellant only when seniority list was proved to be in existence and then not produced before the court. In order to entitle the court to draw inference unfavourable to the party, the court must be satisfied that evidence is in existence and could have be proved.”

17) At this juncture, this Court is reminded of the submission that despite being a Daily Paid Labour, the petitioner does fall within the ambit of workman. Suffice it to say that this Court is of the view that it is not necessary to delve into this argument, since the case has, from the very onset, been considered on the footing that the petitioner is a workman.

18) So far as the judgment relied upon by the learned counsel for the petitioner in *Devinder Singh (supra)*, is concerned, the same is not applicable to the facts of the present case. There is no dispute that the work performed by the petitioner was perennial in nature. However, the crucial aspect which cannot be ignored is that the petitioner himself did not opt to report on duty after 11.07.1992. Therefore, the fact that the work is of a perennial nature does not, by itself, vest any right in the



petitioner to seek reinstatement. Pertinently, the learned Labour Court has protected the interest of the petitioner, directing the Management to consider him for the employment, if, in future, the recruitment is undertaken for the post in question:-

“... Therefore, if the DPLs are employed in future, name of the petitioner shall be considered for the employment on priority basis. With this observation, this reference is disposed of, i.e. the petitioner is not entitled to any other relief. No order as to costs.”

19) Further, there is no necessity for this Court to elicit any opinion, being a matter of record, that it is nowhere spelt out by the petitioner that the direction, as referred to above, has ever been violated by the respondent-Management.

20) In summa, this Court finds no illegality or perversity in the impugned awards, and therefore, the same withstand the test of judicial scrutiny. Accordingly, both the petitions, being bereft of any merits, are **dismissed.**

A photocopy of this order be placed on the file of connected case.

(KULDEEP TIWARI)
JUDGE

16.04.2026
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No