

**CWP-37479-2019 (O&M) and
other connected matters**

2025:PHHC:028271



1

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 242)**

**(1) CWP-37479-2019 (O&M)
Date of Decision : 27.02.2025**

Luder Chand

...Petitioner

Versus

**The Presiding Officer, Central Government Industrial Tribunal-cum-
Labour Court, Chandigarh and others**

...Respondents

(2) CWP-36951-2019 (O&M)

Gautam Singh

...Petitioner

Versus

**The Presiding Officer, Central Government Industrial Tribunal-cum-
Labour Court, Chandigarh and others**

...Respondents

(3) CWP-37500-2019 (O&M)

Dolu Ram

...Petitioner

Versus

**The Presiding Officer, Central Government Industrial Tribunal-cum-
Labour Court, Chandigarh and others**

...Respondents

(4) CWP-37498-2019 (O&M)

Anoop Ram

...Petitioner

Versus

**The Presiding Officer, Central Government Industrial Tribunal-cum-
Labour Court, Chandigarh and others**

...Respondents

**CWP-37479-2019 (O&M) and
other connected matters**

2025:PHHC:028271



2

(5) CWP-37562-2019 (O&M)

Devi Chand

...Petitioner

Versus

**The Presiding Officer, Central Government Industrial Tribunal-cum-
Labour Court, Chandigarh and others**

...Respondents

(6) CWP-37577-2019 (O&M)

Uttam Singh

...Petitioner

Versus

**The Presiding Officer, Central Government Industrial Tribunal-cum-
Labour Court, Chandigarh and others**

...Respondents

(7) CWP-37580-2019 (O&M)

Brahma Nand

...Petitioner

Versus

**The Presiding Officer, Central Government Industrial Tribunal-cum-
Labour Court, Chandigarh and others**

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rishav Sharma, Advocate for the petitioners
in all cases.
(Joined through Video Conferencing)

Mr. Naveen Chopra, Advocate for respondent No. 2
in all cases.



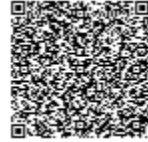
Harsimran Singh Sethi J. (Oral)

1. In the present 07 writ petitions, the details of which have been given in the heading, the grievance being raised by the petitioner(s)-Workmen is that their claim for the grant of reinstatement along with back wages has wrongly been declined by the Industrial Tribunal vide Award dated 18.07.2007 (Annexure P-3).

2. Learned counsel for the petitioner(s) argue that in somewhat similar circumstances, a similar grievance was raised against the same respondent-Institution by a similarly situated Workmen in the case **Uttam Ram and others (Annexure P-4)** which was resolved by the Tribunal through the inference of the completion of 240 days was given so as to grant the benefit of reinstatement though, ultimately the benefit of reinstatement was converted into the grant of one time settlement of ₹2 lacs vide order dated 01.11.2018 (Annexure P-5). The petitioner(s)-Workmen contend that they should also be entitled to the same benefit on the grounds of parity, as they are similarly situated.

3. Learned counsel for the petitioner(s)-Workmen further argues that in the present petitions also, the Tribunal should have recorded an adverse inference regarding the completion of 240 days, which would have ensured that the petitioner(s)-Workmen were not discriminated against compared to similarly situated employees.

4. Learned counsel for the respondents submits that the claim of the petitioner(s)-Workmen that they are similarly situated with the Workmen, who had approached the Tribunal in a case decided by the Award dated



18.07.2007, is not valid. Learned counsel for the respondents argues that the circumstances in the present case are different from that in *Uttam Ram and others (Annexure P-4)*, decided by the Award dated 08.03.2011. As per the case of *Uttam Ram and others (supra)*, the record of working was not available, which led to the inference regarding the completion of 240 days by the Workmen therein which ultimately led to the grant compensation of ₹2 lacs instead of reinstatement vide judgment dated 01.11.2018 (Annexure P)-5) to those Workmen.

5. However, in the present case, the petitioner(s)-Workmen have not completed 240 days as per the record produced before the Tribunal, which led to the findings that the petitioner(s)-Workmen failed to establish that they had worked for 240 days in the 12 months preceding the termination of their services so as to claim violation of provisions of 1947 Act. Hence, the respondent's counsel submits that the Award passed by the Tribunal on 18.07.2007 (Annexure P-3) is perfectly valid and legal.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. It may be observed that in response to the claim of the Workmen that they had completed 240 days in the preceding 12 months prior to the termination of their services, thereby entitling them to the benefits under Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the '1947 Act'), the Industrial Tribunal has dealt with the matter based on the material evidence available on record. In the reply submitted before the Industrial Tribunal, the number of days each Workman had worked



throughout their service tenure with the respondents was brought on record by the respondents. This record reflects that the findings of the Tribunal, which concluded that the petitioner(s)-Workmen had not worked for 240 days in the 12 months preceding their termination, cannot be considered arbitrary or illegal.

8. Furthermore, in the Award dated 18.07.2007 (Annexure P-3) passed by the Tribunal, the petitioner(s)-Workmen themselves admitted that they had not worked for 240 days in the preceding 12 months. Since this fact was conceded by the petitioner(s)-Workmen, their claim regarding the reinstatement that the same benefit should be granted to the petitioner(s)-Workmen based on adverse inference cannot be accepted.

9. The principle of drawing an adverse inference can only be applied in cases where the record is not available or, despite a requisition, the record has not been produced. In the present case, the record was available and was duly produced before the Tribunal. Therefore, the petitioner(s)-Workmen's request for the Court to draw an adverse inference to declare that they had worked for 240 days in the 12 months preceding their termination cannot be accepted.

10. Regarding the reliance on the record from the case (*Uttam Ram and others*) of other Workmen of the respondent-Institute, as presented in Annexure P-4 dated 08.03.2011, it must be noted that in that particular case, the record was not available. In the absence of the record, an adverse inference was drawn in favor of the Workmen, establishing that they had worked for 240 days. However, the factual circumstances in the present case



are distinct, as the record available clearly demonstrates that the petitioner(s)-Workmen did not work for 240 days. Therefore, the petitioner(s)-Workmen cannot claim that they are similarly situated to the Workmen in the Award dated 08.03.2011 (Annexure P-4). The alleged discrimination cited by the petitioner(s)-Workmen is not substantiated, as the petitioner(s)-Workmen in the present case and those in the Award dated 08.03.2011 (Annexure P-4) are not in identical situations that would warrant the granting of relief of reinstatement to the petitioner(s)-Workmen based on the aforementioned Award.

11. In view of the above, no grounds have been established for any interference by this Court in the present petitions. The petitions are accordingly dismissed.

12. Any pending miscellaneous applications, if any, are also disposed of.

13. A photocopy of this order shall be placed on the file of the connected cases.

February 27, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No