

2025:PHHC:030277-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**LPA-849-2024 (O&M)  
Date of decision: 25.02.2025**

**Rajpati @ Rajo**

**.....Appellant**

**Versus**

**Presiding Officer, Industrial Tribunal-cum-Labour Court,  
Rohtak and another**

**.....Respondents**

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH  
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Surender Dhull, Advocate,  
for the appellant.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

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**SUDHIR SINGH (ORAL)**

**CM-2061-LPA-2024**

For the reasons mentioned in the application, the same is allowed and delay of 28 days in filing of the appeal is condoned.

**LPA-849-2024 (O&M)**

The challenge in the instant intra Court appeal is to the order dated 20.11.2023 passed by the learned Single Judge of this Court, whereby writ petition (CWP-24021-2011) filed by the appellant was dismissed.

2. Before the learned Single Judge, the appellant had laid challenge to the award dated 12.03.2010 (Annexure P-4 with the writ petition) passed by the Industrial Tribunal-cum-Labour Court, Rohtak, whereby the reference had been answered against the appellant-workman.

3. As per the facts on record, the stand of the appellant was that she had been working with respondent No.2-Executive Engineer, P.W.D. B&R, Division No.3 (N.H.), Rohtak since 01.11.1990 as a Beldar/Coolie and that she had been verbally retrenched on 01.09.2001 without assigning any reason or reasonable cause. It was further the stand of the appellant-workman that while retrenching her, the provisions of Section 25-F of the Industrial Disputes Act, 1947 (for short 'the Act) had been violated.

4. The respondent-Management had disputed the aforesaid claim of the appellant-workman. It was pointed out by the respondent-Management that the appellant-workman had not completed 240 days in any calendar year and that no person, junior to her, was appointed by the respondent-Management. It was also pleaded that there was no violation of the provisions of the Act. The Labour Court, while passing the impugned Award, had answered the reference against the appellant-workman.

5. The challenge of the said Award has remained unsuccessful before the learned Single Judge. Hence, the present appeal.

6. Learned counsel appearing for the appellant-workman has vehemently argued that as the appellant-workman was appointed against the sanctioned post, she could not have been retrenched without complying with the mandatory provisions of Section 25-F of the Act. It is also argued that as per the testimony of WW2 Surajmal and SDE, records for the period 01.06.1993 to December, 1993 and January, 1994 to February, 1995 had been destroyed in flood. It is, thus, argued that in view of the admission of respondent-Management that the appellant-workman had worked from 1992 to 1995 and that the record for the said period had got destroyed in the flood, a presumption had arisen in favour of the appellant-workman and therefore, there was no occasion to return the finding against the appellant-workman by the Labour Court and the learned Single Judge. It is further argued that the appellant-workman is an illiterate lady and that she had specifically mentioned in her claim petition regarding her appointment and having completed the requisite number of days i.e. 240 days with the respondent-Management and therefore, the impugned order is liable to be set aside.

7. We have heard learned counsel for the parties and have also gone through the impugned order(s).

8. In our opinion, the only question that arises for consideration in the present appeal is, whether the impugned order requires any interference by this Court.

9. A perusal of the impugned order passed by the learned Single Judge would show that the burden of proof that the appellant-workman had worked for 240 days in a given year lies on the workman and that mere affidavit or statement made by the claimant-workman would not suffice in the matter of discharge of the burden placed by law on the workman. After noticing various judgments of the Hon'ble Supreme Court, it was observed by the learned Single Judge that mere non-production of muster rolls *per se* without any plea of suppression by the claimant-workman would not be a ground to draw an adverse inference against the Management. It was also found that the appellant-workman had failed to prove or produce on record any receipt of salary or wages for 240 days. It was further found that the appellant-workman had failed to produce copy of an order regarding her appointment or engagement with the respondent-Management. It was also noticed that the Labour Court had recorded in its Award that the appellant-workman had worked only from the year 1992 to 1995 with heavy breaks and the demand notice was served only on 22.06.2004 i.e. after a gap of nine years from her alleged retrenchment and accordingly, there was an unexplained delay in serving the demand notice. Once the appellant-workman has failed to discharge the burden of proof as regard her having worked for 240 days in a calendar year preceding her alleged retrenchment, no indulgence could be granted to her.

10. We find that the order passed by the learned Single Judge does not suffer from any illegality or perversity. As has rightly been observed by the learned Single Judge, the appellant-workman has not only failed to prove that she had worked for 240 days in a calendar year, but she had also failed to prove any appointment letter issued to her and in the absence thereof, her plea for presumption of truth against the respondent-Management, was rightly rejected by the learned Single Judge.

11. In view of the above, finding no merits, the present appeal is hereby dismissed.

12. Pending application(s), if any, shall also stand disposed of.

**(SUDHIR SINGH)  
JUDGE**

**(SUKHVINDER KAUR)  
JUDGE**

25.02.2025

Ajay Prasher

*Whether speaking/reasoned* : Yes/No  
*Whether reportable* : Yes/No