

2025.PHHC:044563-DB



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

LPA-729-2025 (O&M)

Date of decision: 02.04.2025

OM PARKASH

.....Appellant

Versus

STATE OF HARYANA & ORS.

.....Respondents

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

Present:- Mr. Kulwant Singh, Advocate for the appellant.

SUDHIR SINGH, J.

CM-1869-LPA-2025

For the reasons stated in application, same is allowed.

Delay of 5 days in re-filing the appeal is condoned.

CM-1868-LPA-2025

For the reasons stated in application, same is allowed.

Delay of 144 days in filing the appeal is condoned, subject to all just exceptions.

LPA-729-2025

Challenge in the instant intra Court appeal is to the order dated 11.12.2024 passed by the learned Single Judge, whereby an application for restoration of the writ petition filed by the appellant was dismissed and the order dated 18.07.2024, whereby the very writ

petition filed by the appellant was dismissed by the learned Single Judge.

2. It may be noticed that on 18.07.2024, the learned Single Judge dismissed the writ petition for non-prosecution after recording the contention of the learned counsel for the appellant that he had no instructions from the appellant.

3. Subsequently, an application for recalling of the said order was filed, which was dismissed by the learned Single Judge on 11.12.2024, by observing that the argument of completion of 240 days had never been addressed by the counsel for the appellant when the writ petition was taken up for hearing and then decided on 18.07.2024.

4. Learned counsel for the appellant has vehemently argued that the review application had been filed in terms of the liberty granted by the learned Single Judge, in the order dated 18.07.2024. A specific reference has been made to Para Nos.4 and 5 of the said order, wherein it was observed that in case any substantive issue still existed along with a cause of action to the appellant, the appellant would be at liberty to move an appropriate application seeking revival of the writ petition. It is further argued that the learned Single Judge had further clarified that in case an application for recalling/restoration of the writ petition was filed, then at the time of hearing of the said application, the counsel for the appellant should be ready with the final arguments in the writ petition. It is, thus, argued that when the liberty had been granted to raise the arguments at the

time of the hearing of the application seeking recalling/restoration of the writ petition, the observation of the learned Single Judge in the subsequent order dated 11.12.2024 that the argument of completion of 240 days had never been raised by the counsel when the writ petition was decided on 18.07.2024, is not tenable in the eyes of law.

5. We have heard learned counsel for the appellant and have also gone through the case file, including the impugned orders.

6. It may be noticed that the award in this case was passed by the Labour Court on 19.07.1993. It was observed by the Labour Court that on the basis of the evidence led by the Management, it stood proved on record that the appellant-workman had worked for less than 240 days and, thereafter, he had left the job without applying for the leave and remained absent for two months altogether. The writ petition was filed in the year 1999. Even taking into consideration the argument of the learned counsel for the appellant in respect of the finding of the Labour Court regarding 240 working days, it could not be pointed out by the learned counsel for the appellant that the said finding is not based on the evidence on record. A perusal of the award passed by the Labour Court, clearly shows that MW-2 examined by the respondent-Management deposed that the appellant-workman had never applied for the leave and that he had never worked for 240 days in one year. It was further found that the appellant-workman had admitted in his evidence that he had not moved any application for grant of leave.

7. Though the argument raised by the learned counsel for the appellant that the application for restoration of the writ petition ought to have been allowed by the learned Single Judge, in view of the observations made in the earlier order dismissing the writ petition for non-prosecution, seems to be convincing, yet the fact remains that we have ourselves gone through the award passed by the Labour Court and even if the argument regarding the appellant having worked for 240 days is considered, then also, we do not find that the finding recorded by the Labour Court suffers from any illegality. As noticed above, no evidence was led by the appellant-workman in this regard before the Labour Court.

8. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.

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

**[SUDHIR SINGH]
JUDGE**

**[SUKHVINDER KAUR]
JUDGE**

02.04.2025

himanshu

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No