

a common order. In both the petitions, award dated 31.07.2014 (Annexure P-5) is passed by Labour Court is under challenge.

2. In the present set of two petitions, learned counsel for the petitioner submits that without taking into consideration the totality of the circumstances, the Labour Court merely by recording that the record qua the service period which was summoned was stated to be destroyed has passed the award wherein, the benefit of reinstatement along with continuity in service along with 50% of backwages has been granted to the respondent-Workmen.

3. Learned counsel for the petitioner-Department submits that the record upto the year 2010 which could show the period respondent-Workman rendered his service was destroyed because of the flood whereas the claim of the petitioner-Department was that respondent(s)-Workmen's services have been terminated in December, 2012 and the record qua the service period from January, 2012 till December, 2012 was placed before the Labour Court to record the finding that as to whether, the respondent(s) No.2-Workmen completed the necessary period of 240 days in service in the 12 months preceding the termination, which fact has been ignored and has not been taken into consideration by the Labour Court while passing the impugned award by which, the benefit of reinstatement along with continuity in service along with 50% backwages has been granted in favour of the petitioner.

4. Learned counsel for the respondent No.2 submits that the respondent No.2-Workmen had worked for quite number of years with the petitioner-Department though on daily wages and as the petitioner-

Department failed to produce the relevant record qua the service period, an adverse inference has been drawn against the petitioner-Department, which is perfectly valid and legal hence, the writ petition filed by the petitioner-Department, should be dismissed.

5. I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

6. The benefit of completion of 240 days has been granted in favour of the respondent-Workmen on the ground that the record qua the service period prior to December, 2010 has been washed away/destroyed due to flood.

7. It may be noticed that the said ground so as to grant benefit to the respondent(s) No.2-Workmen is not valid as the said respondent(s) No.2-Workmen claimed that they had worked upto December, 2012 hence, the record of service period from January, 2012 to December, 2012 is the relevant record so as to ensure that whether the respondent(s) No.2-Workmen have completed 240 days in service in the 12 months preceding his/her termination, which fact has not been noticed and rather ignored by the Labour Court while passing the order impugned.

8. As per the petitioner-Department, the details of the days respondent(s) No.2-Workmen rendered service during the period January, 2012 to December, 2012, the respondent(s) No.2-Workmen have not completed the required 240 days, which fact has been ignored by the Labour Court.

9. Keeping in view the totality of the circumstances as the relevant record qua the service period produced, has been ignored by the Labour

Court and only the irrelevant facts that the record prior to December, 2010 has been destroyed, has been taken into consideration while passing the order impugned hence, the award dated 31.07.2014 (Annexure P-5) passed by the Labour Court is perverse to the facts of the case and the same cannot be accepted.

10. The award dated 31.07.2014 (Annexure P-5) is set aside. The case is remanded back to the Labour Court for fresh adjudication so as to decide as to whether, keeping in view the evidences and facts, which have already been brought on record by the petitioner-Department in both the cases qua the number of days service has been rendered by the respondent(s) No.2-Workmen, the respondent(s) No.2-Workmen in both the cases had worked in the preceding 12 months prior to the date of termination or not and whether the respondent(s) No.2-Workmen in both the cases are entitled for any relief or not keeping in view the provisions of the Industrial Disputes Act, 1947.

11. As the respondent(s) No.2-Workmen in both the cases are litigating since long, the Labour Court is directed to adjudicate the issue finally within a period of six months from the date, the parties appear before the Tribunal in pursuance to the present order.

12. Parties are directed to appear before the Tribunal on 01.05.2025.

13. Pending application, if any, also stands disposed of.

02-04-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO