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AT CHANDIGARH**

**CWP-7029-1999 (O&M)  
Date of Decision : 18-02-2025**

**STATE OF PUNJAB**

**.....Petitioner**

**VERSUS**

**GURDEEP SINGH & ANR**

**.....Respondent(s)**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Mohit Kapoor, Sr. DAG Punjab.

None for respondent No.1.

**HARSIMRAN SINGH SETHI, J. (Oral)**

1.            In the present petition, the challenge is to the award passed by the Labour Court dated 09.10.1997 (Annexure P-1) by which, the respondent-workmen was reinstated in services along with backwages on the ground that there is a violation of Section 25F of the Industrial Disputes Act, 1947 on the part of the State-petitioner, the workmen had completed the required 240 days in a whole year when his services were terminated.

2.            Learned counsel for the petitioner submits that it was the act of abandonment of job by the respondent-workmen and the fact that he remained absent and did not report for the duty which made the petitioner-State to take a major step of terminating the duty of the respondent-workmen hence, when a workmen has abandoned the job of his own, it cannot be said that there is a violation of Section 25F of the Industrial Disputes Act, 1947

on part of the State-petitioner, which aspect has not been noticed and appreciated by the Labour Court while passing the impugned award dated 09.10.1997 (Annexure P-1).

3. Learned counsel for the petitioner further submits that if the case would have been that of illegitimate termination, the employee would have approached the Labour Court immediately whereas, the said claim was raised after a period of 6 years from the date of alleged termination, which fact has not been taken into account in a correct perspective by the Labour Court while granting the relief to the respondent-workmen.

4. No one has appeared on behalf of the respondents despite service hence proceeded *ex parte*.

5. I have learned counsel for the petitioner and have gone through the records of the present case with his able assistance.

6. The operation of the impugned award dated 09.10.1997 (Annexure P-1) was stayed on 24.05.1999, which interim order is still continuing.

7. From the pleadings, it transpires that the claim of the employee was that he was appointed on 29.02.1988 (Annexure P-4) and his services were terminated w.e.f. 01.08.1989 without any prior notice issued to him whereas, the respondent has pleaded that it is not a case of termination but that of abandonment by the workman as after 31.07.1988, the respondent-workmen had abandoned the job and did not come back till he issued a demand notice, that too after six years after the said disputed termination.

8. The Labour Court in its award dated 09.10.1997, has held that once upto the date the employee worked had completed 240 days in the

preceding 12 months from the alleged date of termination, the provisions of Section 25F of the Industrial Disputes Act, 1947 stands violated but the Labour Court in its impugned award has failed to appreciate the stand that has been taken by the department that the respondent-workmen had abandoned the job and regarding this fact, no finding has been recorded as to why, the said stand taken by the State is incorrect.

9. Apart from this, once, the respondent-workmen did not raised any objection qua the alleged termination for a period of 6 years and the respondents on record say that the respondent-workmen had abandoned the job, these facts correlate with the stand taken by the State of Punjab, which has not been contemplated and adjudicated upon by the Labour Court.

10. Nothing has come on record to show as to why, the employee kept quite for a period of six years in case, his services were terminated.

11. Keeping in view the totality of the facts and circumstances, where the stand taken by the respondents is two-fold, first being that the respondent-workmen had abandoned the job and second being the fact that the grievance was raised by the respondent-workmen after a period of six years of the said alleged termination and these two assertions are sufficient to depict that the award dated 09.10.1997 (Annexure P-1) by the Labour Court has been passed without appreciating the correct fact so as to hold that the services of the respondent-workmen was terminated.

12. The findings are perverse to the facts and the evidence on record to hold that the services of the workmen were terminated by violating the provisions of 1947 Act and that he had not abandoned the job.

13. Keeping in view the totality of the circumstances, the stand taken by the petitioner-State of Punjab before the Labour Court needs to be decided upon the aspect that whether the same is plausible or not hence, the impugned award dated 09.10.1997 (Annexure P-1) is set aside and the present case is remanded back to the Labour Court for fresh adjudication upon the aspect as to whether, the present case is that of termination of services or of abandonment of job and a clear finding should be given on the basis of the evidence, which has come on record.

14. Parties are directed to appear before the Labour Court on 18.03.2025.

15. Any civil miscellaneous application pending if any, also stands disposed of.

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

18-02-2025  
Sapna Goyal

NOTE: Whether speaking: YES  
Whether reportable: NO