



RAJASTHAN HIGH COURT
Hon'ble Mr. Anoop Kumar Dhand, J.
CWP No. 1334/2015, Dt/– 19-3-2025

Lal Chand Jindal
v.
Regional Manager, Bank of Baroda

INDUSTRIAL DISPUTES ACT, 1947 – Section 25B(2) – 240 days of continuous service – Sundays and paid holidays – Writ petition has been preferred against impugned order passed by the CGIT by which the statement of claim filed by the petitioner-workman was rejected on the technical count that he failed to prove that he had work for more than 240 days in the preceding calendar year – It was contended that the period of holidays was not taken into count while calculating continuous service because of which the total working days was calculated as 227 days – Held, the Tribunal has lost sight of the provision under section 25B(2) of the ID Act – Sundays and other paid holidays can be taken into account for the purpose of continuous service – The impugned order is not sustainable and is set aside – The matter is remitted back to the Tribunal for fresh adjudication. Paras 5 to 9

For Petitioner: Mr. Suresh Kashyap, Advocate.

For Respondent: None present.

IMPORTANT POINTS

- **Sundays and other paid holidays can be taken into account for the purpose of continuous service.**
- **Calculation of continuous service coming to a total of 227 days would be wrong when Sundays and other paid holidays were not taken into consideration.**

ORDER

Anoop Kumar Dhand, J.–

- 1.** None has put in appearance on behalf of the respondents, in-spite of service of notice.
- 2.** The instant writ petition has been preferred against the impugned award dated 14-11-2014 passed by the Central Industrial Tribunal, Kota (for short 'the Tribunal') in case No. 05/1999, by which the statement of claim filed by the petitioner-workman has been rejected on a technical count that he has failed to prove the fact on the record that he worked for more than 240 days in the preceding calendar year.
- 3.** Learned counsel for the petitioner submits that while passing the impugned award, the Tribunal has taken note of the certificate available on the record marked as Exhibit-W1 and on the basis of the same, total working days of the petitioner was calculated as 227 days. Counsel submits that while counting the service period of the petitioner, the period of the holidays, i.e., Sundays and other holidays were not taken into count. Counsel submits that as per the provisions contained under section 25B(2) of the Industrial Disputes Act, 1947 (for short 'the Act of 1947') and as per the judgment passed by the Hon'ble Apex Court in the case of *Workmen of American Express International Banking Corporation v. Management of American Express International Banking Corporation*, AIR 1986 SC 458, the Sundays and other paid holidays should be taken into count for the purpose of treating continuous service of the workman. Counsel submits that under these circumstances, interference of this Court is warranted.
- 4.** Heard and considered the submissions made at the Bar and perused the material available on the record.



5. Perusal of the record indicates that on the basis of the certificate (Ex.W1), the total working period of the petitioner was calculated as 227 days in the last preceding year and on the basis of the same, the Tribunal recorded a finding that the petitioner has failed to prove that he has worked for more than 240 days in a calendar year. While passing the order impugned, the Tribunal has lost sight of the provision contained under section 25B(2) of the Act of 1947 and the judgment passed in the case of *Workmen of American Express International Banking Corporation* (supra), wherein their Lordships of Apex Court have held that the Sundays and other paid holidays can be taken into count for the purpose of continuous service.

6. In absence of the said finding recorded by the Tribunal the impugned award is not sustainable in the eye of law and is liable to be and is hereby quashed and set aside.

7. The matter is remitted back to the Tribunal for its fresh adjudication after affording due opportunity of hearing to both the parties.

8. The parties are directed to appear before the Tribunal on 17-04-2025.

9. It is expected from the Tribunal to decide the Industrial dispute between the parties expeditiously, as early as possible, preferably within a period of one year from the date of appearance before the Court below.

10. In view of the above, instant writ petition stands disposed of. Pending applications, if any, also stand disposed of.

Ref: LLR

If you have any questions, feel free to reach out to us on WhatsApp at Jay Shah - +91 9167121333