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IN THE COURT OF SHRI AJAY PRASHAR, PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT NO. 2, GURGAON.

SANJEEV KUMAR

V/S

~~RICHA & Co.~~

WRITTEN STATEMENT

Sir,

The reply respondent Management respectfully submits as under:

PRELIMINARY OBJECTIONS:

1. That reference in the present form is not maintainable as the Petitioner has never been dismissed/discharged/terminated from service. In fact, workman left coming on duty himself w.e.f. 19.08.2014 without giving any intimation whatsoever.
2. That real dispute is relating to his absence from duty without any intimation whatsoever. Meaning thereby, it is not a case of termination from service of contract of service by the Management but it is case of absence from duty. Hence, dispute should have been referred in the following terms:

“Whether the workman deemed to have left the job by remaining absent from duty”.

3. That on receipt of Demand Notice, Management has appeared before the Conciliation Officer and has categorically submitted that Management has not been terminated from service. Therefore, the Conciliation Officer was liable to have directed the workman to report from duty as there is no termination and disputed does not arise u/s 2 A of I.D. Act but the Conciliation Officer did not advise the workman to report for duty and referred the dispute to the Govt. for reference to the Labour Court. Merely, dispute has been referred in the following terms:-

“Whether the termination of workman from service is legal, if not to what relief the workman is entitled”

4. That after conciliation proceeding is concluded and no settlement could be arrived at, the Conciliation Officer forwarded the report u/s 12 (4) of I.D. Act clearly mentioning version of Management to the effect that workman has not been terminated from service but started to remain absent from duty w. e. f. 19.08.2014.

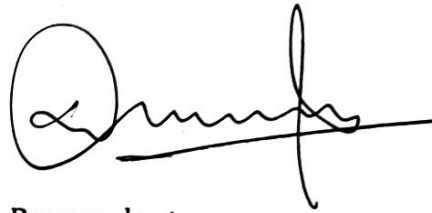
ON MERIT :

1. Para 1 of written statement is admitted that workman was appointed as Operator with respondent Management w.e.f. 08.11.2011 after having accepted the terms of appointment.
2. Para 2 is totally wrong and denied. The detailed reply has been given under Preliminary Objections and same may be read as reply of this para also. However, it is submitted that workman was not terminated the contract of service but it is the workman who himself has terminated the contract of service by remaining absent from duty. Hence, allegation of workman regarding termination from service is totally wrong and denied.
3. Para 3 is wrong and denied.
4. Para 4 is totally wrong and denied. It is wrong and denied that workman was pressurized to take full and final account for the respondent Management due to non-availability of work.
5. Para 5 is wrong and denied. It is wrong and denied that workman has not been in service from 240 days continuously preceding the date of alleged termination.
6. Para 6 is wrong and denied. However, payment of salary, overtime etc. is matter of record.
7. Para 7 is wrong and denied.

8. Para 8 is wrong and denied. It is wrong and denied that workman is still unemployed. In fact, workman is a young man and having factory. It is impossible during the days of increasing cost to meet out his domestic life without any service or earnings.

It is, therefore, prayed that workman is not entitled for any relief and his claim be dismissed without cost.

Place :- Gurgaon
Dated:



Respondent
Through-Counsel
M.P.Gupta & P.K.Gupta, Avocates,
District Courts, Gurgaon.