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**(2000) 08 P&H CK 0035**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Civil Writ Petition No. 8704 of 2000

State of Haryana APPELLANT

Vs

Pardeep Kumar and another RESPONDENT

**Date of Decision:** Aug. 28, 2000

**Acts Referred:**

- Industrial Disputes Act, 1947 - Section 10

**Hon'ble Judges:** S.S. Sudhalkar, J; Mehtab S. Gill, J

**Bench:** Division Bench

**Advocate:** Mr. Raghbir Choudhary, Deputy Advocate General, for the Appellant; Mr. R.K. Malik, for the Respondent

**Judgement**

@JUDGMENTTAG-ORDER

Mehtab S. Gill, J.
The petitioners have filed a writ in the nature of certiorari for quashing the award dated January 21, 1999 (Annexure P-1).

2. It has been averred that respondent No. 1 was engaged as a Labourer on daily wages basis by the Forest Guard for different period for plantation purposes. Respondent No. I was not removed on August 1, 1995, but as alleged by the petitioner, he left the job on his own. Respondent No. 1 then served a demand notice u/s 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the ''Act'').

3. We have heard Shri Raghbir Chaudhary, Senior Deputy Advocate General, Haryana, for the petitioners and Shri R.K. Malik, counsel for workman- respondent No. 1 and perused the annexures attached thereto.

4. The plea of the petitioners'' counsel was that the workman-respondent No. 1 abandoned his job and that he was not retrenched. Dalip Singh, MW-1, came into the witness box, who has merely stated that the workman left the job on his own

accord. No record was produced to this effect nor was any offer made to the workman that he can be taken back. It does not appeal to reason that after doing work for such a long time, i.e. from January 1, 1989 to August 23, 1995, the workman would leave his job on his own accord.

5. Going through the statement showing the details of attendance of the workman commencing from January, 1989 till July, 1995 (Annexure P-5) he has worked for various periods throughout the years. He has worked for some days, months and for full working days in different months. This shows that when there was work in hand, he was called and put on to the required work. Further also, one can come to this conclusion that the petitioners were happy with his work and that is why, he kept working for various dates in different months.

6. Demand notice was served on March 11, 1996. Shri Malik, counsel for respondent No. 1 has argued that the workman should be given full back wages, while counsel for the petitioners states taht if he is reinstated, it is presumed that he must be earning for himself and his family members for the days for which he did not work with the petitioners. We agree with the argument put forward by the State counsel and award 50% of back wages to the workman from the date of his demand notice dated March 11, 1996 till the date of his reinstatement. The remaining part of the award stands intact as it is.

For the reasons stated above, writ petition is allowed partly in the manner indicated above.

7. Petition partly allowed.