



RAJASTHAN HIGH COURT
HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

सत्यमेव जयते

S.B. Civil Writ Petition No. 1334/2015

Lal Chand Jindal S/o Shri Hanuman Prasad, age about 50 years, resident of Patwa Mohalla, Sawai Madhopur (Rajasthan).

-----Petitioner

Versus

Regional Manager, the Bank of Baroda, Regional Office, Bal Mandir Colony, Mantown, Sawai Madhopur, Rajasthan.

-----Respondent

For Petitioner(s) : Mr. Suresh Kashyap

For Respondent(s) : None present

JUSTICE ANOOP KUMAR DHAND

Order

19/03/2025

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 25-B(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 vs. Management of American Express International Banking Corporation** reported in **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 25-B(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.

(ANOOP KUMAR DHAND),J

KuD/59

