

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP no. 11975 of 1993(O&M)

Date of Decision : 12.01.2015

Bansi Lal

....Petitioners

Versus

The Presiding Officer, Labour Court, Patiala and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

1)Whether reporters of local newspapers may be allowed to see the judgment?

2) To be referred to the Reporters or not?

3) Whether the judgment should be reported in the Digest?

Present : Mr.Navjot Singh, Advocate for the petitioner

Mr. Nilesh Bhardwaj, DAG, Punjab

MAHESH GROVER, J.

The limited grievance of the petitioner is that while answering the award in his favour the Labour Court has not granted him back wages even though reinstatement was directed which relief was granted to the petitioner. This Court is thus left to examine the only issue of grant of back wages to the petitioner. The Hon'ble Supreme Court in various pronouncements has held that grant of back wages alongwith reinstatement may not be an automatic course available with the Labour Court to be adopted. While considering the grant of relief to a workman there are certain factors which need to be taken into consideration such as ones observed by Hon'ble Supreme Court in case titled as **Sr. Supdt. Telegraph (traffic) Bhopal vs. Santosh Kumar Seal and others** reported as 2010(6) SCC 773 wherein it has observed as under:

“ 7. In a recent judgment authored by one of us (R.M. Lodha,

J.) in the case of **Jagbir Singh vs. Haryana State Agriculture Marketing Board and Anr.** 2009(3) SCT 790: 2009(5) RAJ 153: (2009) 15 SCC 327, the aforesaid decisions were noticed and it was stated:

“7. It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

.....

14. It would be, thus, seen that by a catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wages has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily wager who does not

hold a post and a permanent employee.”

8. In view of the aforesaid legal position and the fact that the workmen were engaged as daily wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monetary compensation would subserve the ends of justice.”

The petitioner had put in four years of service when the order of termination was passed. Therefore, this ought to have been one of the relevant factors to be noticed for the grant of relief, if any, to the petitioner in terms of service benefits.

On due consideration of the matter and noticing the fact that the petitioner was a daily wager and worked for almost four years when his services were terminated, he was of course not working continuously. Since at this present stage when the petitioner has already been reinstated and worked with the respondents, I am of the view that grant of back wages may not be an appropriate course to be adopted considering the nature of assignment of the petitioner which was periodic, not continuous and on daily wages and instead grant of compensation would be a better course. Keeping in view the totality of circumstances, the petitioner is held entitled to compensation of Rs.2 lacs which shall be paid to him within a period of four months from the date of receipt of the certified copy of this order.

January 12, 2015
rekha

(MAHESH GROVER)
JUDGE