

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.12737 of 1993
Date of Decision: 05.08.2015

Baldev Singh

... Petitioner

Versus

The Presiding Officer, Labour Court, Patiala and another

... Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Pankaj Sharma, Advocate for the petitioner.

Mr. Harsh Aggarwal, Advocate for the respondent No.2.

AMIT RAWAL, J. (ORAL)

Challenge in the present writ petition is to the award dated 15.01.1993 (Annexure P-1), wherein the petitioner has sought modification vis-a-vis non-grant of backwages.

Learned counsel for the petitioner has specifically pleaded in the claim petition that he was unemployed during the period he remained out of service as stated in Examination-in-Chief and no question was asked to him in cross-examination. The statement of the petitioner/workman reads thus:-

"Ref No.1032/89

WW.1 Statement of Sh. Baldev Singh workman on S.A.

Stated that I was working with the respondent as driver and had put in nine months five days continuous service

and I was drawing Rs.1305/- per month by way of wages when my service were wrongfully terminated vide Ex. M4 without any notice, chargesheet, enquiry or payment of the compensation. I had searched for work but could not find any. I claim reinstatement with continuity of service and full backwages.

XXX

It is correct that I was appointed vide Ex.M1 and received the same. Ex.M2 and Ex.M2 and Ex.M3 are the extension order which have been received by me. It is correct that my services have been terminated vide Ex.M4 I am married having three children. It is wrong to suggest that my monthly expenses are Rs.1000/-. I depends upon my parents. My father is a labourer. I do not work as labourer with my father. It is wrong to suggest that I am deposing falsely.

ROAC

19.8.92

Presiding Officer

Statement of Sh. V.K. Sharma, representative of the workman.

I close the evidence.

RO & AC

19.8.92

Presiding Officer"

He submits that Labour Court has assigned no reasons in granting the backwages and, therefore has committed illegality and perversity. He further submits that Labour Court once had found that Management did not resort to the provision of Section 25-F of Industrial Disputes Act while dispensing with the services of the petitioner as no enquiry or retrenchment compensation was paid, therefore, he was entitled to reinstatement.

Mr. Harsh Aggarwal, learned counsel appearing on behalf of Management submits that since the Management did not resort to the provision of Section 25-F of the Act and, therefore on technical ground the petitioner has been held entitled to the reinstatement along with continuity in service. Since, he has worked for the period he remained out of service,

therefore, the Labour Court has rightly declined the backwages.

I have heard the learned counsel for the parties.

The workman has categorically stated in the claim statement and Examination-in-Chief that he was unemployed during the period he remained out of service, thus the direction contained in the judgment of Hon'ble Supreme Court in *Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) and ors. 2013(10) SCC 324*, has been complied with. Once the aforementioned submissions have been made, which was incumbent upon the employer to rebut the same, no effort has been made to rebut the same, much less, any suggestion or question in cross-examination has been put to the witness.

Keeping in view the aforementioned facts, the award of the Labour Court is modified. The petitioner is thus, entitled to the backwages to the extent of 50% and he has been ordered to be reinstated from the date of raising of the demand notice.

The writ petition stands disposed of.

Management is directed to make the payment of backwages within a period of three months from the date of receipt of certified copy of the order failing which it shall entail interest @ 12% p.a.

August 05, 2015
pawan

(AMIT RAWAL)
JUDGE