

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CWP no.13489 of 1993 (O&M)

Surinder Singh

....Petitioners

Versus

Presiding Officer, Labour Court Bathinda and others

...Respondents

2. CWP no.3966 of 1994 (O&M)

M/s Malwa Bus Service Pvt. Ltd.

....Petitioner

Versus

Presiding Officer, Labour Court Bathinda and another

...Respondents

Date of Decision : 21.01.2015

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.Harinder Sharma, Advocate for the petitioner
in CWP no. 13489 of 1993 and
for respondent no.2 in CWP no. 3966 of 1994

MAHESH GROVER, J.

This order will dispose of two writ petitions bearing CWP nos.
13489 of 1993 and 3966 of 1994.

CWP no. 13489 of 1993 has been preferred by the workman
impugning the award whereby compensation of Rs.7500/- has been awarded
to him after rendering one year service, before they were dispensed with.

CWP no. 3966 of 19994 has been filed by the Management
against the very award questioning it on the ground that the compensation is
excessive and also because of non existence of the relationship of master

and servant.

The workman questioned his dismissal from services on the ground that it was arbitrary as no notice, chargesheet or inquiry was held and neither was any compensation paid to him. He was working as driver and was drawing salary of Rs.500/- per month.

The respondent – Management disputed the relationship of employer and employee.

During the course of answering the reference the workman led his evidence and provided the details of the bus which he had driven from Ludhiana to Tarn Taran during the course of his assignment. The request was also made by the workman asking the management to provide way bills from 01.01.1986 to 31.12.1986 but despite the demand notice submitted by the workman the same were not produced on the pretext that after the audit the bills have been destroyed.

In the totality of the circumstances I am of the view that the workman had reasonably discharged the onus cast upon him to prove that he was working as driver with the management and performing his duties by plying the bus as per the particulars provided by him which were not effectively set off by the management even though opportunity was given to them.

Thus keeping in view the aforesaid facts when the workman has discharged his onus and the management failed to offset the finding the award of the Tribunal, the finding holding the petitioner to be an employee of the respondent – management cannot be faulted with.

This leads the Court to examine the question of compensation awarded. It is not in dispute that the workman worked for almost a year.

There are no prescribed parameters for grant of compensation in such like matters and always some bit of guesswork is adopted by courts to arrive at a just figure.

The Hon'ble Supreme Court in **Jagbir Singh vs. Haryana State Agriculture Marketing Board and another** (2009) 15 Supreme Court Cases 327 has granted Rs.50,000/- to a daily wager who was retrenched after rendering service of about 10 ½ months. Similarly, in **Assistant Engineer Rajasthan Dev. Corporation & Another vs. Gitam Singh**, 2013 (5) SCC 136 a compensation of Rs.50,000/- to a daily wager whose services were terminated after a period of 8 months, was awarded.

Keeping in view the aforesaid, the award of the Labour Court is modified and the workman is held entitled to the compensation of Rs.50,000/-.

In view of above, CWP no. 13489 of 1993 is disposed of in above terms and CWP no.3966 of 1994 is hereby dismissed.

January 21, 2015
rekha

(MAHESH GROVER)
JUDGE