

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 18337 of 2002 (O&M)

Date of decision: 10.02.2015

**Chief Engineer, Irrigation Works,
Punjab, Chandigarh and another**

....Petitioners

V/s.

Tarlok Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA.

Present: Mr. Rajiv Prashad, Addl. A.G., Punjab.

Ms. Gaganpreet, Advocate for
Mr. Baldev Raj Mahajan, Sr. Advocate
for respondent No. 1.

RAJIV NARAIN RAINA, J. (Oral).

Mr. Prashad submits that the stay order continued for 8 years during which period the provisions of Section 17-B of the Industrial Disputes Act, 1947 (for short 'the Act') were complied with without taking any work out of the respondent. Respondent No. 1 *defacto* retired from service on reaching the normal age of superannuation i.e. 60 years on 31.03.2010 as is available to class IV employees who retire at the age of 60 years.

Ms. Gaganpreet, learned counsel appearing for the workman points out that the Government on its own stopped paying the benefits under Section 17-B of the Act after her client reached the age of superannuation on 31.03.2010. This was a wrong done to him. I do not think so. Interim orders passed by this Court against the award of labour Court while staying their operation cannot run longer than superannuation after which the rights

under the Act cease to exist, cf. *Essar Project Limited v. N.D. Jagdishwara*; 2012 (6) SLR 728, *Hindi Rectifiers Limited v. Presiding Officer, 1st Labour Court*; 2001 (1) CLR 609, *Hooghly Printing Co. Ltd. v. State of West Bengal and others*; 2004 (2) Cal. H.C.N. 390, *Varadaraja Textiles (P) Ltd. Coimbatore v. Labour Court, Coimbatore and another*; 1999 (1) CLR 631 and *Binoy Kumar Chatterjee V/s. M/s. Jugantar Limited and Others*, 1983 AIR SC 865: 1983 (3) SCC 289. The contrary view expressed by the Delhi High Court in *Management of Centaur Hotel v. P.S. Mohan Nair & another*; 2012 (2) SCT 463: 2012 (4) SLR 624 is not the correct statement of law and I would rather follow the views expressed by the Bombay High Court, Calcutta High Court, Madras High Court and especially the reasoning of Gujarat High Court speaking through M.R. Shah, J. in *Essar Project Limited (supra)*. Mr. Prashad contends that the amount of wages paid under Section 17-B of the Act for work not taken, would be sufficient compensation in lieu of reinstatement. In the circumstances, I think Mr. Prashad may not be wrong in his submission keeping in view the totality of circumstances of the case.

The petition, is consequently, rendered infructuous and is disposed of as such.

The amount given to respondent No. 1 under Section 17-B of the Act is declared non-recoverable by the State as that would be a solatium creditable towards compensation. There can be no reinstatement in the case. The award stands suitably modified.

February 10, 2015
Divyanshi

(RAJIV NARAIN RAINA)
JUDGE