

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

CWP No.9568 of 1996

Date of decision: 22.07.2015

The Panipat Cooperative Sugar Mills Limited,
Panipat

... Petitioner

Vs.

Presiding Officer 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. C.B.Goel, Advocate
for the petitioner.

Mr. M.S.Sindhu, Advocate
for respondent No.2.

AMIT RAWAL J. (Oral)

Management has approached this Court challenging the Award dated 13.09.1995, Annexure P-3 and 16.01.1996, whereby, the reference has been answered in favour of the workman and he has been held entitled to reinstatement with continuity of service along with full back wages.

Without adverting to the merits and de-merits of the matter, this Court vide order dated 09.07.1996, while admitting the present writ petition, passed the following order:-

“Admitted.

In the meantime, operation of the impugned award

is stayed only to the extent of 50% of the back wages.

This shall also be subject to the following conditions:-

(a) The workman shall be taken back on duty within one month by sending an intimation to him by registered post;

(b) Out of the remaining 50% back wages, 25% shall be deposited by the petitioner-mill in a fixed deposit in any scheduled bank in the name of the workman on which he shall get quarterly interest; and

© Remaining 25% be paid to him in cash.”

Mr. M.S.Sindhu, learned counsel appearing on behalf of respondent No.2 submits that the workman had been taken back on duty and has also superannuated.

This Court while staying 50% back wages had also ordered that out of remaining 50% back wages, 25% was directed to be deposited by the petitioner in a fixed deposit in any Scheduled Bank in the name of the workman and 25% was to be paid to the workman in cash.

The workman did not aver in the claim statement and demand notice that he was unemployed during the period he remained out of job.

I have gone through the statement made by the workman before the Labour Court and found that no such statement has been made. In view of the ratio decendi culled out by the Hon'ble Supreme

Court in **Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyala (D.Ed.) and others 2013(4) S.C.T.716**, wherein, it has been held that there has to be specific averment in the claim statement and demand notice that the workman had not worked during the period he remained out of job and even has not worked on lesser wages, the workman is not entitled to back wages.

In view of the interim order dated 09.07.1996, workman had been given 25% back wages, I do not deem it appropriate, to recall back wages. The Management had deposited 25% back wages in the Scheduled Bank in the name of workman and 25% back wages in cash. The Award of the Labour Court is modified and it is held that the workman would be entitled to only 25% of the back wages which has already been paid to him. The Management granted liberty to seek/refund of 25% back wages which has been deposited in the name of the workman.

With the aforementioned directions, writ petition stands disposed of.

It is made clear that the workman shall be entitled to all other benefits for the period when he was taken back into service till superannuation.

(AMIT RAWAL)
JUDGE

July 22, 2015
savita