

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

DATE OF DECISION : 23.2.2015

1. C.W.P. No.4907 of 2001 (O&M)
Haryana Co-operative Sugar Mill Ltd., Rohtak
versus
Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak and another.
2. C.W.P. No.18634 of 2001 (O&M)
Haryana Co-operative Sugar Mill Ltd., Rohtak
versus
Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak and another.
3. C.W.P. No.1943 of 2002 (O&M)
Haryana Co-operative Sugar Mill Ltd., Rohtak
versus
Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak and another.
4. C.W.P. No.2926 of 2002 (O&M)
Daya Nand
versus
Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak and another.
5. C.W.P. No.7607 of 2003 (O&M)
Haryana Co-operative Sugar Mill Ltd., Rohtak
versus
Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak and another.
6. C.W.P. No.8401 of 2002 (O&M)
Haryana Co-operative Sugar Mill Ltd., Rohtak
versus
Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak and another.

7. C.W.P. No.8794 of 2002 (O&M)

**Haryana Co-operative Sugar Mill Ltd., Rohtak
versus
Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak and another.**

8. C.W.P. No.11704 of 2002 (O&M)

**Haryana Co-operative Sugar Mill Ltd., Rohtak
versus
Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak and another.**

9. C.W.P. No.11763 of 2002 (O&M)

**Haryana Co-operative Sugar Mill Ltd., Rohtak
versus
Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak and another.**

10. C.W.P. No.7856 of 2003 (O&M)

**Haryana Co-operative Sugar Mill Ltd., Rohtak
versus
Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak and another.**

11. C.W.P. No.16500 of 2004 (O&M)

**Haryana Co-operative Sugar Mill Ltd., Rohtak
versus
Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak and another.**

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:- Shri A.P.Setia, Advocate for the petitioners(in all the petitions except CWP No.2926 of 2002).

None for the petitioners in C.W.P. No.2926 of 2002.

Shri Raman B.Garg, Advocate for the respondents
(in C.W.P. Nos.8401,8794 of 2003).

MAHESH GROVER, J.

This order will dispose of C.W.P. Nos.4907,18634 of 2001, 1943,2926,8401,8794,11704,11763 of 2002, 7607,7856 of 2003 and 16500 of 2004 since the facts and the issues raised therein are almost identical and are capable of being decided together.

In all these petitions(except C.W.P. No.2926 of 2002), the Management of the Haryana Co-operative Sugar Mills Limited, Rohtak has come up impugning the award of the Labour Court. The workmen in all these cases were working on daily wages, who faced termination of their services on various dates which may not be relevant for the purpose of present controversy. Suffice it to say that the reference claimed in all these cases pertained to the wrongful termination of the services of the workmen without complying with the provisions of Section 25-F of the Industrial Disputes Act (hereinafter referred to as the Act) and without issuance of the notice or following the process of law.

In C.W.P. No.2926 of 2002, workman Daya Nand has challenged the award claiming full wages instead of 50% granted by the Labour Court.

The petitioner/Management took up the plea that the reference was bad in the eyes of law as the workmen had abandoned their duties despite the offer

of joining given by the petitioner to the workmen.

The periods during which the workmen had worked, also vary in each petition and for the purpose of reference, the same are given in a tabulated form:-

Writ petition and name of workman	Date of appointment	Date of retrenchment.
CWP 4907 of 2001 Daya Nand	11.8.1989	19.11.1994
CWP 18634 of 2001 Baljit Singh	3.11.1991	20.11.1994
CWP 1943 of 2002 Sulender Singh	3.11.1990	18.11.1994
CWP 2926 of 2002 Daya Nand	11.8.1989	19.11.1994
CWP 8401 of 2002 Balwan Singh	14.11.1986	23.4.1996
CWP 8794 of 2002 Kailash	23.4.1986	21.11.1995
CWP 11704 of 2002 Satpal	5.5.1986	2.12.1995
CWP 11763 of 2002 Ram Kishan	23.9.1986	2.12.1995
CWP 7607 of 2003 Satbir	March,1993	6.3.1995
CWP 7856 of 2003 Dharambir Singh	January, 1986	November,1995
CWP 16500 of 2004 Dharan Raj	May, 1987	October, 1995

It was further pleaded that the workmen had not completed 240 days of service preceding the year of his termination.

In C.W.P. No.4907 of 2001, in the reference, the following question was framed :-

“Whether the termination of services of Daya Nand is justified

and in order ? If not, to what relief he is entitled ?”

Subsequently, on the basis of the respective claims of the parties, the following issues were framed :-

- “1. As per terms of reference ?
- 2. Whether the reference is bad in law ?
- 3. Whether the reference is without jurisdiction ?
- 4. Whether the applicant is gainfully employed ?
- 5. Relief.”

The Tribunal then went on to determine the proceedings and ordered reinstatement of the workmen along with back wages, the percentage of which varies from each case and the particulars thereof in each award are extracted here below for ready reference :-

Writ petition no. and name of workman.	Relief granted by Tribunal/ Award dated.	Stay granted by HC.
CWP 4907 of 2001 Daya Nand	Reinstatement with 50% back wages 7.11.2000	Only back wages stayed.
CWP 18634 of 2001 Baljit Singh	Reinstatement with 40% back wages 12.7.2001	Only back wages stayed.
CWP 1943 of 2002 Sulender Singh	Reinstatement with 40% back wages 12.10.2001	Only back wages stayed.
CWP 2926 of 2002 Daya Nand	Reinstatement with 50% back wages 7.11.2000	Only back wages stayed.
CWP 8401 of 2002 Balwan Singh	Reinstatement with 50% back wages 27.5.2002	Award has been stayed.
CWP 8794 of 2002 Kailash	Reinstatement with 80% back wages 22.2.2002	Back wages stayed.
CWP 11704 of 2002 Satpal	Reinstatement with 70% back wages 14.3.2002	Back wages stayed.
CWP 11763 of 2002 Ram Kishan	Reinstatement with 70% back wages 14.3.2002	Back wages stayed.
CWP 7607 of 2003 Satbir	Reinstatement with 50% back wages 4.2.2003	Back wages stayed.
CWP 7856 of 2003 Dharambir Singh	Reinstatement with 50% back wages 10.1.2003	Back wages stayed.

CWP16500 of 2004
Dharan Raj

Reinstatement with 50% back wages
15.10.2004

Back wages
stayed.

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Along side the information, the particulars of the terms in which the restraint order was made operative, is also indicated.

All these awards have now been challenged by the petitioner to contend that they are erroneous and liable to be set aside or atleast modified in so far as the grant of back wages is concerned.

It has been contended by the learned counsel for the petitioners that reinstatement was not stayed and thus, given effect to in all the aforesaid cases except the one i.e. C.W.P. No.8401 of 2002 where the award was stayed in its totality. But even in this petition, the workman has been getting wages as per the provisions of Section 17-B of the Act. It is thus contended that since the workmen stood reinstated, the solitary issue that would arise for consideration of this Court as of today would be the grant of back wages. It is the contention of the learned counsel for the petitioner that grant of back wages automatically is not a course to be adopted by the Labour Court without offering sustainable reasons.

There can be no quarrel with this proposition, but the totality of the facts have to be taken into consideration. The finding that the workman had completed 240 days during the calendar year preceding the date of termination was duly established by the workmen and in fact, the only plea taken up by the petitioner before the Labour Court was that the provisions of Section 25-F of the Act did not warrant compliance in view of the workmens' employment on daily wages which did not find favour with the Labour Court. Similarly, the plea of the petitioners that the workmen were being employed from season to season, and the details of the periods during which the workmen worked, clearly brought out the fact that the workmen had put in 240 days of service during the calander year

preceding the date of his termination. If that be so, then the workmen were entitled to the protection of Section 25-F of the Act. The findings of the Tribunal on this score cannot be faulted with and are accordingly affirmed.

This leaves the Court to determine the parting relief to be granted in the given set of circumstances. As noticed above, the workmen in all the petitions were reinstated in service. The validity of the question on this aspect thus fades into insignificance in view of the long pendency of the petitions and the continuous employment of the workmen.

On the issue of back wages also, this Court would not like to interfere at this stage of the proceedings when a discretion has been exercised by a Labour Court with no perversity attached to it. For another reason also, this course would be more feasible. The alternative course available with the Labour Court was the grant of compensation and thus, for each year of completed service which in this case would be one year, the workmen would be entitled to compensation which in terms of the various pronouncements of the Hon'ble Supreme Court would have been almost equivalent to the amount of wages if the award of the Tribunal is upheld.

Thus, in the considered view of this Court, these are the cases where this Court would not interfere with the impugned award as with the efflux of time and the predominant fact of the workmens' continuance in service, any interference at this stage may not subserve the cause of justice.

In C.W.P. No.8401 of 2002, the award was stayed in totality. The petitioner was granted the benefit of Section 17-B of the Act which has been duly complied with. This petition would also meet the same fate.

This Court would also not like to interfere with the award of the Labour Court in C.W.P. No.2926 of 2002 filed by the workman, as 50% back wages cannot be said to be inadequate.

The petitions are therefore, dismissed.

February 23, 2015
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(MAHESH GROVER)
JUDGE