

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

C.M.No.7180 of 2015 in/and
CWP No.16615 of 2004
Date of decision: 01.07.2015

State of Haryana

... Petitioner

Vs.

Niranjan Sharma and others

... 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. Hitesh Pandit, Additional Advocate General, Haryana
for the non-applicant/petitioner.

Mr. Deepak Sonak, Advocate
for the applicant/respondent No.1.

AMIT RAWAL J. (Oral)

Vide application i.e. C.M.No.7180 of 2015, prayer has been made for early hearing of the writ petition.

Notice of the application to the counsel opposite.

On asking of the Court, Mr. Hitesh Pandit, Additional Advocate General, Haryana, accepts notice on behalf of the non-applicant/petitioner.

Learned counsel for the applicant-workman submits that in pursuance to the Award, applicant has been taken back into service along with continuity of service. However, owing to the interim

order dated 26.10.2004, full back wages has not been paid to him.

For the reasons stated in the application, which is duly supported by an affidavit, the same is allowed and the main writ petition is taken on board for hearing today itself.

The Management has challenged the Award of the Labour Court, whereby, the workman has been held entitled to reinstatement with continuity of service and full back wages.

Mr. Hitesh Pandit, learned State counsel submits that the workman-respondent had not rendered 240 days in the relevant year, therefore, the Award of the Labour Court is perverse and is not sustainable in the eyes of law and in fact, the workman has rendered 218 days only, therefore, the Labour Court has over-looked the provisions of Section 25-B of the Industrial Disputes Act, 1947.

Mr. Deepak Sonak, learned counsel for the applicant/respondent No.1 submits that in pursuance to the Award, the workman has been reinstated into service and is continuously working as Computer Operator. However, he has not been paid full back wages. The workman was appointed as Computer Operator on 17.5.1999. However, his services were illegally terminated on 19.07.2000. Thereafter, demand notice was served upon the Management which culminated into reference being referred to the Labour Court.

I have heard learned counsel for the parties and appraised the paper book.

The plea of the Management that the workman has not completed 240 days in the calendar year, for the reason, that the Management has not taken into consideration Saturdays and Sundays did not find favour with the Labour Court. The Labour Court while taking into consideration the case law, as well as, muster roll found that the Management erred in not counting the Saturdays and Sundays, if the Saturdays and Sundays are counted, the workman is deemed to have completed more than 240 days in the calendar year.

Mr. Deepak Sonak, learned counsel for the applicant/respondent No.1, on instructions from his client, has very fairly submitted that his client is willing to forego full back wages as workman has been taken back into service with continuity of service.

In view of the statement referred above, Award of the Labour Court is modified to the extent that the workman shall be entitled to reinstatement along with continuity of service without any back wages.

With the aforementioned modification, writ petition stands disposed of.

**(AMIT RAWAL)
JUDGE**

July 01, 2015
savita