

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM No.8931 of 2015 in/and  
CWP No.19512 of 2003  
Date of Decision: 18.09.2015

Divisional Forest Officer, Gurdaspur

... Petitioner

Versus

Sham Lal and another

... Respondents

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

Present: Mr. Harkesh Manuja, Addl. AG, Punjab.

Mr. Sushil Saini, Advocate.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

**RAJIV NARAIN RAINA, J.**

**CM No.8931 of 2015**

For the reasons stated in the application, the same is allowed  
and the main case is taken up on Board today itself.

**Main Case**

1. On August 20, 2015 this Court passed the following interim  
order:-

*“Mr. Manuja to take instructions if this matter can  
be settled by payment of compensation as quantified in the  
light of precedents including **BSNL vs. Man Singh**, (2012)  
1 SCC 558; **BSNL vs. Bhuru Mal**, AIR 2014 SC 1188 and  
the Division Bench judgment of this Court in **Municipal  
Council, Dina Nagar vs. Presiding Officer, Labour Court,  
Gurdaspur and another**, decided on 29.11.2014.*

*List on 11.09.2015.”*

2. Mr. Harkesh Manuja, the learned Additional Advocate General, Punjab on instructions from Parshotam Singh, Range Forest Officer, Pathankot who is present in Court states that though Government is not averse to a settlement by way of payment of lump sum compensation instead of reinstatement but still he is not in a position, within his instructions, to admit to a particular figure. The amount which may be assessed is left to the rule of thumb in the wisdom of the court so as to serve the ends of justice in this case.

3. Going by the average of the amounts of compensation granted by courts of law in relation to the duration of service rendered before termination even when held illegal by the labour tribunals, plus a host of other relevant factors taken into consideration, the group effect of all of which add to what is judicially thought adequate and judiciously reasonable compensation in lieu of reinstatement by the precedents of the Supreme Court in a few of many including by virtue of illustration in **BSNL v. Man Singh**, (2012) 1 SCC 558; **Assistant Engineer, Rajasthan Dev. Corp. & Anr vs. Gitam Singh**, 2013 (2) SCT 30 (SC) [as distinguished in **Raghubir Singh v. General Manager, Hayana Roadways, Hisar**, Civil Appeal No 8434 of 2014 September 3, 2014 (SC)]; and **BSNL v. Bhurumal**, (2014) 7 SCC 177 then these cases are sheet anchors on the point to measure the doze of relief.

4. This Court believes that compensation packages in labour laws as practised in the Industrial Disputes Act, 1947 in cases where avoidance of relief of reinstatement to service is found appropriate in this category of relief-oriented dispensations handed down by Labour Tribunals must also

remain kinetic, ever changing with the changing climes, adjusting themselves automatically with the cost of living index as may be found appropriate to usher in change by the winds of change and passage of time. In this improvisation, precedents of the distant past are to be respected but may be of any real or valuable help today or of any assistance except for their legal concepts evolved and the thus the rationale for the decision on the point adjudged which determines the judgment alone remains binding. However, monetary relief to be granted by rule of *stare decisis* can be read only in precedents as indicative of what was found just and proper in the given case at the relevant age but in these decisions no hard and fast rules can be laid down of universal application for the rapidly transforming future nor ought to be pinned down for present application since facts of each case in the context of a society in transition are ephemeral to suit the felt necessities of the times just like traffic is on the highway of progress ever changing and never to be repeated again on the freeway or in the congestion of time.

5. Hence, what may have been thought adequate compensation in yesteryears may not hold good for tomorrow or in the near future. Rising income and the minimum wage should not colour the mind of the court to scale down relief as was and ought to be administered in ID Act, 1947. The law in substance does no change unless the law itself is altered. Parliamentary legislation like the ID Act, 1947 is designed for the past, the present and the future unless declared void by court or held abrogating fundamental rights resulting in violation of the basic structure of the Constitution.

6. One salutory advance in compensation law administered in socially beneficial welfare legislation lies in the recent Division Bench judgment of this Court in **Municipal Council, Dina Nagar v. Presiding Officer, Labour Court, Gurdaspur**, 2015 (1) RSJ 765 formulating a broad spectrum rule of compensation of Rs. 1 lac for peons and Rs 1.25 lacs for surplus clerks for every completed year of service rendered with the Council when court found reinstatement unjustified.

7. The items put in the basket of relief must then carry this Court to the view that in order to secure the ends of justice and for it to be met wholesomely, a onetime lump sum payment of Rs.3 lacs to the respondent workman in lieu of reinstatement is considered adequate and reasonable for the parting of ways by what is called in the colloquial, the golden handshake thought sufficient succour to the grievance sought to be remedied. When this sum assessed is paid to the workman by applying the thumb-rule, which unwritten rule is not intended to be strictly accurate or reliable for every situation, it will bring the dispute to a logical end to which the counsel for the workman is not averse at the final hearing. After which the right to sue any further would stand extinguished. It is therefore directed that the petitioning Forest Department will defray the aforesaid sum to the respondent-workman within a period of two months of the date of receipt of certified copy of this order through a demand draft/pay order or payment by cash against receipt as the workman may request at his option sought for within the time frame.

8. In the conflict of decisions on the point of reinstatement or compensation in lieu thereof and “no automatic reinstatement” cases the

court must not in trying to find the pleasant median be driven to the point of a judicial nervous breakdown amongst the stream of judicial thought tearing the law apart. In saying this I refer to the law in the distance between **Hindustan Tin Works Pvt. Ltd. v. Employees of Hindustan Tin Works Pvt. Ltd.**, (1979) 2 SCC 80; **Surendra Kumar Verma v. CGIT**, AIR 1981 SC 422 and **P.G.I of Medical Education & Research, Chandigarh v. Raj Kumar**, (2001) 2 SCC 54 [reaffirming *Hindustan Tin Works* case] cases on the one hand and **Harjinder Singh v. Punjab State Warehousing Corporation**, (2010) 3 SCC 192 and **Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) and others**, (2013) 10 SCC 324 cases on the other and the dichotomy of a “visible shift” in between the two broad sets of cases accounting for much of the judicial dilemma that the High Court has to face and grapple with day in and day out in the two basic emerging streams of thought while remaining uncertain of the future tense since they are mostly ideology based on the relationship between capital and labour in the throes of “globalization” and the Supreme Court's lament on construction of by lanes into the side lanes of labour laws quite missing the rights of labour and their livelihood and the protections of industrial rights under Sections 25F, 25G and 25H and the other special statutory rights in the ID Act.

9. Each court must then be left to its own wisdom if the people are to repose trust when well known lessons of law and justice duly recognized are applied. If trust and faith is lost in justice to be had from court then everything is lost. The duty of the court is to affirm that trust in every case before it by applying current judicial thought which may be divergent from

past precedents and the philosophy underlying them. The choice is really between scylla and charybdis in the matter of grant of relief in labour laws dealing with termination/retrenchment under Section 2A of the Act. The choice of relief will depend much on the intuitive reflex of the court of the day fashioned by knowledge and experience in the discipline of law for which it is appointed to dispense justice to begin with. Otherwise anyone can dispense with justice while handing it down.

10. Accordingly, the petition filed by the department of Government against the impugned award of the labour court is dismissed. As a result, the impugned award stands modified for the foregoing reasons recorded in writing. The Divisional Forest Officer, Gurdaspur is directed to obtain clearances on the receipt of a certified copy of this order from the appropriate quarters and pay the compensation as assessed in this order within two months to the respondent and submit a compliance report before the Registrar General of this Court within three weeks thereafter failing which the registry to put up case for further directions before the appropriate Bench as per roster with liberty to the workman to apply in this disposed of matter in case State fails to comply.

**(RAJIV NARAIN RAINA)  
JUDGE**

**18.09.2015**  
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