

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CWP No.10198 of 2012
Date of Decision: 20.02.2015**

Raj Kumar

..... Petitioner

Versus

Central Government Industrial
Tribunal-cum-Labour Court-II,
Sector 18, Chandigarh and another

..... Respondents

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

Present: Mr. Vikas Singh, Advocate,
for the petitioner.

Mr. Vikas Chatrath, Advocate.

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

RAJIV NARAIN RAINA, J.(Oral)

Indisputably, the workman served the respondent-Organization for ten months from January 13, 1998 to November 17, 1998. The Labour Court has denied relief and declined the reference.

Learned counsel for the petitioner submits that there is no finding of the Labour Court that the petitioner was a part-time worker. The demand notice is silent as to the character of employment and the hours of duty required to be performed in a day.

Mr. Chatrath, however, refutes the factum of full-time employment and says it was part-time. But there is no concrete evidence either way to return a positive finding.

Without joining issue on the question, and in order to settle the

dispute, this Court will assume the position mid-way between full-time and part-time and award Rs. 85,000/- as compensation in lieu of reinstatement, for the reason that the provisions of Section 25-F of the Industrial Disputes Act, 1947 were violated and due procedure, which was mandatory in nature, was not followed before the axe fell. In view of the recent decision of the Supreme Court in **Jasmer Singh v. State of Haryana & Anr.**, Civil Appeal 346 of 2015 arising out of SLP (C) No 1532 of 2014 decided on 13th January 2015, wherein it has been held that the normal rule to be applied where Section 25-F of the Act is violated is that it renders the termination order void, relief of compensation in lieu of reinstatement is justified, for loss of work. The Supreme Court in *Jasmer Singh* applied its earlier ruling in **Deepali Gundu Surwase v. Kranti Junior Ahdyapak Mahavidyalaya & Ors.**, (2013) 10 SCC 324 to uphold relief. In these circumstances reinstatement with full back wages were awarded to the appellant by upholding the award of the labour court for one year of service by setting aside the orders passed in the writ petition and in the letters patent appeal before this Court. Nevertheless, reinstatement is not to be awarded automatically as reaffirmed in **Assistant Engineer, Rajasthan Development Corporation v. Gitam Singh**, [2013] 5 SCC 136 which impels me to apply the principle in this case to deny reinstatement to service.

Therefore, on hearing Mr. Vikas Singh and Mr. Vikas Chatrath, learned counsel for the respective parties on their respective stands, this petition is partially allowed. The award is set aside. Denial of reinstatement is upheld. However, non-grant of compensation is held to be bad and

instead the respondents will pay Rs.85,000/- as compensation in lieu of reinstatement as lump-sum payment after which no dispute will be left between the parties. This amount is found just and meet to remedy the mischief by applying the rough rule of relief handed down in **Municipal Council, Dina Nagar v. Presiding Officer, Labour Court**, LPA 754 of 2013 rendered by the Division Bench on 29th November, 2014 of Rs 1 lac as compensation in lieu of reinstatement for every year of service put in by Peons who were declared surplus on introduction of a new labour saving scheme of municipal water supply but without following the statutory steps involved in Section 25 F of the Act.

Ordered accordingly.

The respondents thus would pay compensation by draft in the sum of Rs.85,000/- directly to the workman at the address given in the memo of parties within one month of the receipt of a certified copy of this order, failing which interest @18% per annum would run till realization.

(RAJIV NARAIN RAINA)
JUDGE

20.02.2015

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