

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

CWP No.13044 of 2011

Date of Decision: 26.02.2015

Smt. Raj Bala

... Petitioner

Versus

The Executive Engineer Operation Division UHBVNL,
Narwana & anr.

... Respondents

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

Present: Mr. Rajesh Dhiman, Advocate,
for the petitioner.

Mr. Praveen Gupta, Advocate,
for respondent No.1.

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

RAJIV NARAIN RAINA, J.(Oral)

The period of service rendered by the petitioner's late husband as a part time (Mali) in the Uttar Haryana Bijli Vitran Nigam Limited, at Narwana was from 16th September,1995 till 17th July, 2001, when his service was terminated. The petitioner is the widow of late Kitab Singh and claims monetary benefits through her husband in this petition filed under Article 226 of the Constitution. There is a minor dispute on the date of retrenchment but the petitioner is supported by documentary evidence of a payment made. The total service comes to about six years. This is not a case for reinstatement and I would not make that order since it has been declined by the labour court in the impugned award and looking to the totality of the circumstances I find no reason to differ with view of the court *a quo*. Instead, I am of the view that an award of compensation in lieu of

reinstatement is the better option in moulding the relief as the amount of compensation awarded by the Labour Court is too low at Rs.10,000/- lump sum which is unacceptable, unjust and inappropriate to the ends of justice. Various decisions of the Supreme Court and this Court have not been taken into account by the learned Presiding Officer, Labour Court, Hisar, in impugned award dated 21st June, 2010 declining reinstatement but awarding such a paltry amount as compensation. In view of broad dispensations handed down in BSNL Vs. Man Singh, (2012) 1 SCC 558, BSNL Vs. Bhurumal, 2014 (3) SCT 49, Assistant Engineer, Rajasthan Development Corporation & anr. Vs. Gitam Singh, (2013) 5 SCC 136, and a host of other cases to be reasonable yardstick to be applied to this case. The Division Bench of this Court recently in *LPA No.754 of 2010; Municipal Council, Dina Nagar Vs. Presiding Officer and another, decided on 29th November 2014*, have spelt out a broad rule standardizing compensation in a sum of Rs.1 lac per year for retrenched peons and Rs.1.25 lacs for pump operators in municipal service. Going by the indicators in those orders, I would put a cut of half the amount of compensation awarded in *Municipal Council, Dina Nagar's case(supra)*.

Keeping in view that the present case is of a part-time employee and those awards were for given full time employment terminated in violation of the mandatory provisions of Section 25 F of the Industrial Disputes Act. This cut would be 40% thus working out the amount of compensation at Rs.60,000/- per year in lieu of reinstatement. By this calculation, the compensation in lieu of reinstatement comes to Rs.3.60 lacs. Since the petitioner's husband has been deprived of work after termination

and loss of wages during the most fruitful years of life, and future loss of earning, she needs to be compensated for the future and not just by restricting the compensation with reference to the period of service actually rendered. Looking to this, then in addition to the amount of Rs.3.60 lacs a lump sum amount of Rs.1.00 lac deserves to be added towards loss of the future bread basket as well as the costs of litigation in two courts. In this manner, the petitioner is held entitled to compensation of Rs.4.60 lacs in lieu of reinstatement. The award amount is modified accordingly and be paid within two months from the date of receipt of a certified copy of this order to the petitioner either by direct payment to her or by deposit of the amount before the Labour Court, failing which, the principal amount will earn interest @ 18% per annum till realization.

The petition is partly allowed and stands disposed of in above terms.

26.02.2015
monika

(RAJIV NARAIN RAINA)
JUDGE