

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

Civil Writ Petition No.11043 of 2012

Date of decision: 2.11.2015

The Secretary, District Red Cross Society, Karnal

... Petitioner

Versus

The Presiding Officer and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Shireesh Gupta, Advocate,
for the petitioner.

Mr.N.P.Bhardwaj, Advocate,
for respondent No.2

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

RAJIV NARAIN RAINA, J.

Reference No.258 of 2003 has been answered in favour of the work-person granting her reinstatement with continuity of service and 50% back wages from the date of demand notice i.e. December 3, 2002. Vide award dated December 29, 2010 passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat, a positive finding of fact has been returned by the Labour Court that the centre in which the work-person was employed, had not closed down. Work was available. It was not disputed that the work-person had completed continuous service of 240 days in the preceding 12 calendar months from the date of the termination of her

services brought about orally on April 1, 2000. The management is the Red Cross Society, Karnal.

2. The Labour Court has appreciated the evidence produced by both the parties including oral as well as documentary and has held that the only plea to support retrenchment by the management was based on falsehood where the Society was unable to establish on record that the centre was shut or had closed down in part and, therefore, the plea was not acceptable that there was no question of grant of relief. The Labour Court read the order of termination Ex.MX-8 which referred to a previous letter dated November 4, 1999 which is Ex.M6 on the court file but this document, according to the Labour Court, did not suggest that the Central Ministry in the Government of India which ran the scheme through the aegis of the Red Cross Society ever asked that the centre be closed down. What was suggested by the Central Government was to convert the earlier activity into a Treatment-cum-Rehabilitation Centre. Therefore, the activity continued but in a different *avtar* in the same premises and with the same working strength. The respondent worked as a janitor and had been recruited by the Society. She served with effect from May 30, 1989. She was appointed by calling names from the employment exchange. The nature of the work was such that it continued after illegal termination. There was an admission in the deposition of MW-1 in the cross-examination in the fifth line from the top deposing : “Yeh thik hai ki treatment-cum-rehabilitation centre ba nasha mukti centre ek hi bat hai yeh thik hai ki hamare yahan nasha mukti kander ex.ww1/1 ke ebad shuru kiya gaya tha”. It is certainly not a case of closure but of replacement of the same activity by another to

control drug addiction and help addicts to come out of their troubles.

3. No ground warranting interference is made out in the just and equitable award passed by the Labour Court.

4. The petition to stand dismissed.

(RAJIV NARAIN RAINA)
JUDGE

November 2, 2015

Paritosh Kumar