

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.W.P.No.11332 of 2013

Date of Decision: March 17, 2015

Vinod Devi

...Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Hissar & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Rajwant Singh Chahal, Advocate,
for the petitioner.

Mr.Ravi Pratap Singh, AAG, Haryana,
for the State.

AMIT RAWAL, J. (Oral)

Prayer in the present writ petition is for quashing the award dated 17.1.2013 (Annexure P-1), whereby the Labour Court held that the services of the petitioner were illegally terminated, much less, against the provisions of Section 25-F of the Industrial Disputes Act, 1947 (for short “the Act”), yet the Labour Court has awarded consolidated compensation of ₹1,05,000/-.

Mr.R.S.Chahal, learned counsel appearing for the petitioner submitted that the award of the Labour Court is illegal, perverse and against the principles of law laid down by the Full Bench of this Court in

Municipal Council, Dina Nagar, Tehsil & Distt. Gurdaspur Vs.

Presiding Officer, Labour Court, Gurdaspur and another, 2014(4)

S.C.T. 514 and as well as the Supreme Court in **Jasmer Singh Vs. State of Haryana & Anr., Civil Appeal No.346 of 2015 (Arising out of S.L.P. (C) No.1532 of 2014)**, decided on 13.1.2015.

Mr.Ravi Pratap Singh, learned AAG, Haryana appearing on behalf of the State contented that the petitioner had left the service, but despite that the respondent-Management has neither served the charge sheet nor conducted the disciplinary proceedings.

I have heard the learned counsel for the parties, appraised the paper book, award of the Labour Court and as well as the judgments and am of the view that the writ petition is liable to be allowed and the award of the Labour Court is not sustainable in view of the *ratio decidendi* culled out by the Hon'ble Supreme Court in **Jasmer Singh's case (supra)** while relying upon the ratio decidendi culled out in **Harjinder Singh vs. Punjab State Warehousing Corporation, 2010(1) S.C.T. 725** and as well as the principles laid down by the Full Bench of this Court in **Municipal Council, Dina Nagar's case (supra)**.

In view of principles laid down by the Full Bench and the Hon'ble Supreme Court, it is now settled law that where the services of the workman have been found to be terminated in blatant violation of provisions of Section 25-F of the Act, the workman is not only entitled to reinstatement with continuity of service, but also entitled to full back wages for the reason that the Labour Court did/do not consider the basic needs of life, which, the petitioner is compelled to face, like nutrition to herself and family members as well as the education etc.

The burden to prove that the petitioner was gainfully employed during the period she remained out of service, was on the employer. In the absence of any discharge of onus regarding gainful employment, the workman is entitled to full back wages. In the instant case, no such evidence has been led by the employer to prove that the workman was gainfully employed during the period she remained out of service.

Since the Labour Court did not ponder on the *ratio decidendi* culled out by the aforementioned judgments, award of the Labour Court dated 17.1.2013 (Annexure P-1) is set-aside. Consequently, the petitioner-workman is entitled to reinstatement with continuity of service and as well as full back wages for the period she remained out of service. The full back wages are awarded considering the fact that the petitioner-workman had rendered 19 years of service.

The writ petition is allowed.

March 17, 2015
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(AMIT RAWAL)
JUDGE