

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

CWP No.156 of 2012 (O&M)

Date of Decision: 1.12.2015

Kundal Sharma

..... Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar and others
..... Respondents

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

Present: Mr.Manoj Chahal, Advocate for the petitioner

Ms. Jarnail Kaur Dhaliwal, Advocate for
respondents no.2 and 3

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

RAJIV NARAIN RAINA, J. (Oral)

1. The Industrial Tribunal-cum-Labour Court, Hisar has returned a finding of fact, after appreciating the evidence on record i.e. Ex.W-1 and W-2 that the petitioner was employed as a daily wager by the Command Area Development Authority and served from 8th December, 2003 to August, 2005 i.e. for a period of one year and nine months. The claim of the Management has been belied in that the workman had not completed 240 days in the 12 calander month preceding the date of termination effected in the month of August, 2005. The finding is that the workman served continuously and uninterruptedly within the meaning of Section 25-B of the Industrial Disputes Act, 1947 (for short “the Act”) to be entitled to the protection of Section 25-F of the Act. The finding on compliance of Section 25-F of the Act is in the negative. The

Management acted in breach of Section 25-F of the Act and did not

follow the mandatory pre-requisite provisions of the Act and therefore, on both counts, the two essential jurisdictional facts have been established on record.

2. The learned Labour Court has denied reinstatement on the ground that the appointment of the petitioner as daily wage worker was *de hors* the rules and his name was not sponsored by any of the Employment Exchanges when he was engaged to work on daily wages on a menial job. Denial of employment rights to other eligible candidates has been used as a factor to decline the relief of reinstatement and compensation in lieu of reinstatement. The labour court has deemed it fit to quantify compensation at a meagre Rs.20,000/-. The impugned award was passed on 22nd September, 2011 and much water has flown down the bridge since then to ratify the monetary dispensation doled out by the Labour Court. In the considered view of this Court, this is not an appropriate case where reinstatement deserves to be awarded on account of the service period being brief and it would be more appropriate to apply the compensation packages as have been awarded by the Supreme Court in cases such as **BSNL v. Man Singh**, (2012) 1 SCC 558 and **BSNL v. Bhirumal**, AIR 2014 SC 1188. The recent decision of the Division Bench of this Court in **Municipal Council, Dina Nagar v. Presiding Officer, Labour Court, Gurdaspur and another**, 2015 (1) RSJ 765 serves as a rough and ready yardstick to measure compensation packages. This Court in *Dinanagar* dealt with retrenched peons and considered it fit to award Rs.1.00 lac towards every completed year of service rendered by them with the Municipal Council.

3. Mr.Manoj Chahal, learned counsel appearing for the petitioner has relied on the judgment of this Court in **CWP No.1212 of 2014** (Gurdip

Singh vs. Presiding Officer and others) decided on 26th November, 2015 awarding Rs.2.00 lacs as compensation in lieu of reinstatement for one year and 9 months service rendered as daily wager. Mr. Chahal may not be wrong when he says that the aforesaid case on all fours covers the case of the petitioner, and therefore, it would serve as a ready reckoner to serve the ends of justice if compensation to the tune of Rs.2.00 lacs (rounded off) is awarded by modifying the impugned award of the Labour Court. It is so ordered as just and appropriate to bring an end to the dispute.

4. In the light of the above discussion, this petition is partially allowed. The impugned award dated 22nd September, 2011 passed by the Industrial Tribunal-cum-Labour Court, Hisar is upheld with respect to denial of reinstatement, but is modified on compensation which will count as above. The amount be paid to the workman within two months from the date of receipt of a certified copy of this order, failing which, the amount as modified would earn interest at the rate of 18% per annum till realization to ensure timely compliance.

(RAJIV NARAIN RAINA)
JUDGE

2.12.2015

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