

CWP No. 10002,10019,10026 &10022 of 2014

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IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 10002 of 2014
Date of decision : August 7, 2015

The State of Punjab and others

..... Petitioners
Versus

Smt. Bachni and another

..... Respondents
CWP No. 10026 of 2014

The State of Punjab and others

..... Petitioners
Versus

Smt. Bhajno and another

..... Respondents
CWP No. 10019 of 2014

The State of Punjab and others

..... Petitioners
Versus

Smt. Piaro and another

..... Respondents
CWP No. 10022 of 2014

The State of Punjab and others

..... Petitioners
Versus

Smt. Shindo and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

**Present:- Mr. V. Ramswaroop, Additional Advocate
General, Punjab.**

Mr. Dinesh Kumar, Advocate

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for the respondents.

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?

Amit Rawal, J.

By this order I intend to dispose of CWP Nos. 10002,10019,10022 and 10026 of 2014 as common question of fact and law is involved in all the cases. For the sake of convenience, facts are taken from CWP No. 10002 of 2014.

The challenge in the present writ petitions is to the award dated 6.11.2012 whereby the reference raised by the respondent-workmen viz-a-viz their alleged termination and demand notice has been answered in favour of the workmen and they have been held entitled to compensation equal to three months wages for each year i.e. w.e.f. 2003 till 2012 and entitled to be reinstated on same post from which their services were terminated. As per the award the department was also directed to consider the case of the workmen during their employment from the date they joined and pass an order viz-a-viz regularization within three months from the date of passing of the award as per government guidelines.

Mr. V. Ramswaroop, Additional Advocate General, Punjab Submits that the Labour Court in granting the said relief committed illegality and perversity, the demand notice was served in the year 2003 and their services were terminated in 2001. The workmen failed to discharge the onus that they completed 240 days

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in a relevant year and they were appointed without following the regular procedure, therefore continuity of service and back wages could not have been given as they were having the status of daily paid workers and now the workmen have crossed the age of superannuation long time back, therefore the award is not sustainable in the eyes of law.

Learned counsel for the respondents submits that the workmen have rendered services of almost 16 years and they have faced the wrath of alleged termination for almost a decade. The award of the Labour Court is fair, legal and justified and liable to be upheld as the management while terminating the services of the workmen did not resort to the provisions of Section 25-F of the Industrial Disputes Act (hereinafter called as 'the Act'). It has further been submitted that the Management did not produce the record from March 1988 onwards and the story which was surfaced in the cross examination was that it was destroyed. The muster rolls for the year 1995 to 2000 were produced. Thus, intentionally the Management withheld the muster rolls particularly from April 1988 onwards, therefore adverse inference is liable to be drawn. Only record of five years was produced. The plea of the Management that the workmen left the job at their own has not been proved on record. Had it been so, nothing prevented the Management to issue show cause notice, charge sheet, much less enquiry. It cannot be lost sight of fact that during that period new workers had also been appointed, therefore, there is violation of provisions of Section 25-H of the Act. Since the workmen had already rendered 240 days during

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the period they remained in service, the relief granted by the Labour Court as aforementioned, in my view, is justified. Since all the workmen have attained the age of superannuation, I do not deem it appropriate to uphold the award viz-a-viz reinstatement. This Court while issuing notice of motion had directed the State to comply with the directions for payment of compensation for the period w.e.f.2002 to 2012 which amounted to ₹60,000/-. It has been submitted that the said amount has been deposited in the Labour Court. Two workmen i.e. in CWP No. 10002 and 10026 of 2014 the workmen have died wherein in other cases payment has been made. Since the workmen had rendered 16 years of service and they remained out of job for almost 10 years, compensation granted by the Labour Court is liable to be enhanced. Accordingly, the workmen shall be entitled to ₹6 lacs each as compensation in all the cases. It is made clear that out of the awarded amount of compensation, the amount already withdrawn/taken shall be adjusted.

The award of the Labour Court is modified. Keeping in view the fact that the workmen had superannuated, the Management is directed to make payment within a period of three months from today, failing which it shall entail interest at the rate of 9% per annum.

The writ petition stand disposed of.

(AMIT RAWAL)
JUDGE

August 7 , 2015
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