

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

Civil Writ Petition No.1212 of 2014

Date of decision: 26.11.2015

Gurdip Singh

... Petitioner

Versus

Presiding Officer and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.R.K.Arora, Advocate,
for the petitioner.

Mr.B.S.Taunque, Advocate,
for respondent-PSEB.

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

RAJIV NARAIN RAINA, J. (Oral)

While issuing notice of motion, this Court restricted the prayer to enhancement of compensation in lieu of reinstatement. At the motion hearing on 23.1.2014, Mr.Arora learned counsel appearing for the petitioner-workman relied on the decision of the Supreme Court in **Assistant Engineer, Rajasthan Development Corporation and another v. Gitam Singh;** (2013) 5 SCC 136 : 2013 (2) SCT 30 to submit that the workman was entitled to much higher compensation than the niggardly amount awarded by the Labour Court.

2. Broad facts are; the petitioner had to his credit service of one year and nine months with the Board while serving as a daily wage worker before his services were terminated in breach of the provisions of Section 25-F of the Industrial Disputes Act, 1947 [briefly 'ID Act'].

3. The Presiding Officer, Labour Court, Patiala has affirmed that termination has been visited on the claimant in violation of the mandatory procedure in Section 25-F of the Act which makes the termination illegal and ab-initio void. The court *a quo* has deemed it fit to deny reinstatement and instead awarded compensation of only ₹ 25,000/- as compensation in lieu of reinstatement. The amount of ₹ 25,000/- is very demeaning and represents paltry relief awarded in improper exercise of jurisdiction by the Labour Court.

4. The sole reason assigned to so drastically scale down the compensation to ₹ 25,000/- is based on the erroneous reasoning that the reference remained pending adjudication for 10 years and, therefore, interest of justice will be served if compensation worth ₹ 25,000/- is directed to be paid to the petitioner by the respondent-Board.

5. The length of pendency of reference is not the controlling factor in the award of compensation. Compensation packages require careful consideration by the Labour Courts while dispensing justice by keeping in account a host of factors such as the nature and character of the appointment, the tenure or duration of service, impact assessment of future livelihood on termination, loss of immediate job, financial status of the employer, delay and laches in raising disputes and many other such things.

Though no hard and fast rule can be laid down on compensation packages

and the Court mostly goes by the rule of thumb acting on intuitive reflexes gained by experience earned from past judicial precedents and the current trend of cases decided by the Supreme Court and the High Courts which are all helpful in the making orders.

6. In finding an appropriate median to serve the ends of justice compensation awarded in cases such as **BSNL v. Man Singh**, (2012) 1 SCC 558 and **BSNL v. Bhirumal**, AIR 2014 SC 1188 may be applied to work out just, reasonable and adequate compensation. The balance has to be struck between over compensation and under-compensation and for this work judicial experience in the Labour Court is wanting as it has acted tight fisted as though money was going out of the pocket of the Court. The Court has ever to strike a just balance between the interest of the worker against exploitation and the employer from being fleeced. Both have to be duly regarded and protected.

7. For the present, Mr.R.K.Arora relies on the 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 a case where Peons working in the Municipal Council, Dinanagar were retrenched and reinstatement was denied but were awarded compensation at ₹ 1 lac for every completed year of service rendered by them with the Council. The decision in **M.C. Dinanagar** was rendered on 29.11.2014 and would be appropriate indicia to award in this case compensation of ₹ 2 lacs [rounded off] which is held to be fair and adequate compensation for one year and nine months of service.

8. Consequently, this petition is allowed. The award of the Labour Court is modified. The amount of compensation will be read as ₹ 2 lacs which shall be due and payable to the petitioner within 2 months from the date of receipt of a certified copy of this order. However, if the amount is not paid/disbursed to the petitioner, either directly or through the Labour Court within the aforesaid time, then interest would run @ 18% per annum till realization. The interest rate @ 18% is for the reason that it will ensure timely compliance while providing reasonable time for appeal.

(RAJIV NARAIN RAINA)
JUDGE

November 26, 2015

Paritosh Kumar