

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

**CWP No.18356 of 2012
Date of decision: 07.07.2015**

The Managing Director, Haryana Tourism Corporation Ltd.,
Chandigarh

... Petitioner

Vs.

Balbir Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. R.S.Kundu, Advocate
for the petitioner.

Mr. Surinder Singh, Advocate, for
Mr. R.S.Mamli, Advocate
for respondent No.1.

AMIT RAWAL J. (Oral)

Challenge in the present writ petition is to the Award dated 02.12.2011, Annexure P-6, whereby the reference has been decided in favour of the workman and he has been held entitled to reinstatement with continuity of service and 25% back wages from the date of demand notice i.e. 19.10.2002 (Annexure P-1).

Mr. R.S. Kundu, learned counsel for the petitioner-Management strenuously argued that the Award of the Labour Court is illegal, perverse and is not justifiable, much less, mis-conceived.

He further submits that the workman was employed as Waiter and during cross-examination, it was found that Hut No.1006 in Block No.1 was found occupied by a guest without any booking and the same has been admitted during cross-examination but the fact remains that the workman did not have the adequate qualification for being appointed as Waiter. Since the services of the workman were terminated on 17.7.1992 and he was appointed on 06.02.1989 and the Management has complied with the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the I.D.Act'). Since the workman is not entitled to back wages as there is no pleading that he remained out of job. In support of aforementioned contention, relied upon the judgment of Hon'ble the Supreme Court in Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyalaya (D.Ed) and others **2013(4) S.C.T.716**.

The Labour Court on the basis of the evidence found that the Haryana Tourism Department has appointed the workman on 15.03.1989 on the probation period of two years but later on his appointment as Waiter had been withdrawn on 23.06.1989 and his training discontinued on account of complaint received during surprise check. Workman preferred an appeal and he was taken on duty again and workman could not be called for interview in the year 1997 but was called for interview in the year 1999 . The said plea of the Management was not accepted by the Industrial Tribunal on the premise that the workman was allowed to continue after completion

of training which was for more than 240 days. It has been found that as per the condition imposed vide Ex.M-11, the workman had been considered on passing diploma stated to have passed in November, 1989 and the training period was from 1989 to 1997. While terminating service, Management has failed to resort the provisions of Section 25-F of the I.D.Act. The Labour Court on the basis of the evidence also found that the Management had adopted unfair labour practice and thus, rightly ordered to reinstatement with continuity of service. There is no illegality and perversity in the Award of the Labour Court.

I am in agreement with the contention of learned counsel for the petitioner-Management since the workman has not averred that he remained out of job and the award of the Labour Court in awarding 25% back wages is not sustainable.

In view of the aforesaid, Award of the Labour Court is upheld qua reinstatement with continuity of service and viz-a-viz awarding of the 25% back wages is set aside.

Accordingly, writ petition stands disposed of.

(AMIT RAWAL)
JUDGE

July 07, 2015
savita