

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

**CWP No.4323 of 2010 (O&M)  
Date of decision: 04.05.2015**

M/s Leece Neville Auto Lek Limited ... Petitioner

Vs.

Presiding Officer and another ... Respondents

**CWP No.8426 of 2011(O&M)**

Jagjitan ... Petitioner

Vs.

The Presiding Officer 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. Anil Shukla, Advocate  
for the petitioner in CWP No.4323 of 2010.  
for respondent No.2 in CWP No.8426 of 2011.

Mr. Deepak Sonak, Advocate  
for the petitioner in CWP No.8426 of 2011.  
for respondent No.2 in CWP No.4323 of 2010.

**AMIT RAWAL J. (Oral)**

This order of mine shall dispose of two writ petitions  
bearing Nos.4323 of 2010 and 8426 of 2011.

CWP No.4323 of 2010 has been filed by the Management

against the Award dated 22.10.2009 passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court-III, Faridabad, whereby, the reference has been decided in favour of the workman, vide which, the workman was ordered to be reinstated in service with continuity thereof and 20% of back wages.

CWP No.8426 of 2011 has been filed on behalf of the petitioner-workman qua denial of payment of full back wages.

Learned counsel for the petitioner-Management submits that the workman has been reinstated into service despite the fact that he had tendered resignation on 4.10.2001 which was accepted on 06.10.2001 and serving of demand notice dated 13.10.2001 tantamounts to complete summersault on behalf of the workman.

Mr. Deepak Sonak, learned counsel appearing on behalf of respondent No.2 submits that in the cross-examination, in response to a specific question being put to workman that was he not gainfully employed, the workman has stated that he has never gainfully employed during the period he remained out of job.

I have learned counsel for the parties and appraised the paper book.

It is a matter of record that in pursuance to the order dated 8.10.2012, petitioner has been reinstated into service in the year 2013 though the Award was passed way back in the year 2009 i.e. 22.10.2009.

In view of the fact that the petitioner has joined service

and had been paid 20% back wages, no cause of action survives in CWP No.4323 of 2010. As regards claim of full back wages, it has been held by the Hon'ble Supreme Court in **Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyalya (D.Ed) and others 2013(10) SCC 324** that workman has to make specific averment in his claim petition that he was not gainfully employed during the period he remained out of job. In the absence of the pleadings, the claim of the workman is thus vitiated in law and therefore, liable to be rejected.

In view of what has been observed above, both writ petitions are dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**May 04, 2015**  
savita