

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.22218 of 2012

Date of Decision: 17.11.2015

Brahm Sarup

... Petitioner

Versus

D.A.V. College Managing Committee,
Chitra Gupta Road, New Delhi
and others

... Respondents

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

Present: Mr. Divay Sarup, Advocate,
for the petitioner.

Mr. R.S. Cheema, Advocate,
for R-1 & R-2.

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

RAJIV NARAIN RAINA, J.

1. Taking a broad and holistic view of the entire evidence recorded before the Labour Court as reflected in the award dated February 01, 2012 passed by the Presiding Officer, Labour Court, Hisar in Ref. No.22 of 2007 it appears just and fair to award compensation in lieu of reinstatement in this case in order to serve the ends of justice. There is no doubt that the provisions contained in section 25-F of the Industrial Disputes Act, 1947 (“the Act”) were breached and, therefore, the termination is illegal and *ab initio void*. In view of the legal position holding the field and reflected in the recent ruling of the Supreme Court handed down in **State of U.P. vs. Charan Singh**, (2015) 8 SCC 150

awards reinstatement as a matter of course yet reinstatement ought not to be awarded automatically or mechanically and many factors would have to be taken into consideration before moulding the relief on a case to case basis.

2. The Labour Court has to the mind of this Court erred on relief much on the lower side in awarding compensation of Rs.15,000/- after holding that the termination was vitiated due to non-compliance of section 25-F of the Act. The amount of Rs.15,000/- has been directed to earn interest @ 8% per annum from the date of publication of the award till realization. Compensation awarded @ Rs 5000/- per year is wholly inadequate and clearly out of sync with the times and the rising cost of living index and does not reflect the correct ground level position as found applied *inter alia* in the Division Bench decision of this Court rendered in **Municipal Council, Dina Nagar v. POLC, Gurdaspur**, 2015 (1) RSJ 765 where compensation was awarded @Rs.1 lac to 1.25 lacs for every year spent in service before illegal termination.

3. In the present case, the petitioner had served the respondent educational institution as a Laboratory Attendant for a little over three years. Mr. Cheema returning with instructions in terms of the previous interim order to consult his client on compensation urges before this Court a citation rendered by me in CWP No.2020 of 2012 in *Dilbag Singh vs. Presiding Officer and others* decided on August 11, 2015 where this Court awarded Rs 2.5 lacs in lump sum compensation in lieu of reinstatement in full and final settlement of the claim of a Beldar-cum-Gardener who served the department for about 8 or 9 years and any compensation awarded in modification of the award should not exceed that amount in case relief is

found due by monetary enhancement. I had then relied on the rulings of the Supreme Court to consider quantum of compensation in **BSNL vs. Man Singh and another**, (2012) 1 SCC 558; **Assistant Engineer, Rajasthan Development Corporation and another vs. Gitam Singh**, (2013) 5 SCC 136 and in **BSNL vs. Bhurumal**, (2014) 7 SCC 177 to make what appeared then to be just and reasonable compensation. Applying those standards to the present case, this Court deems it fit to award compensation of Rs.2.5 lacs to the petitioner as compensation in lieu of reinstatement and the Labour Court award shall stand modified accordingly.

4. This petition is thus allowed partially. Reinstatement is denied and compensation as above is awarded to serve the ends of justice. The amount is a round figure and includes interest up to date from the date of publication of the impugned award. However, in case the amount is not paid within 30 days from the date of receipt of certified copy of this order the principal amount would earn interest @18% per annum.

5. Mr. Sarup has no objection to this financial arrangement while it amicably puts an end to the dispute in the manner aforesaid.

(RAJIV NARAIN RAINA)
JUDGE

17.11.2015
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