

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

**CWP No. 2637 of 2011**  
**Date of decision : July 21, 2015**

**State of Haryana**

**..... Petitioner**

**Versus**

**Ashok Kumar and another**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Hitesh Pandit, Additional Advocate  
General, Haryana for the petitioner.

Ms. Sonia G. Singh, Advocate  
for the workman-respondent No.1.

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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 (oral).**

The State of Haryana has challenged the award dated 13.9.2010 (Annexure P-1) of the Labour Court, whereby the workman has been ordered to be reinstated with continuity of service and back wages at the rate of 50% within a period of two months from the date of publication of the award.

Mr. Hitesh Pandit, Additional Advocate General, Haryana submits that the workman was appointed as a part time Water man on daily wages in the year 1998. However, he has rendered service up to the year 2003 i.e. for five years. Since he was a part time water man on daily wages, therefore is not entitled to

reinstatement, at the best, in view of ratio decidendi culled out in **B.S.N.L Vs. Bhurumal, 2014 (3) S.C.T.49** would be entitled to reasonable compensation.

He has further submitted that the respondent-workman has not averred in the claim statement that he was not employed during the period he remained out of service, therefore, award of reinstatement with continuity of service and 50% back wages ought not to have been rendered by the Labour Court, thus, the award of the Labour Court suffers from illegality and perversity, therefore, not sustainable in the eyes of law.

Ms. Sonia G. Singh, learned counsel for respondent No.1-workman submits that the workman was not employed as a part time Water man but the fact remains that he was appointed on daily wages and rendered full time job of Water man. Since the petitioner-Management did not resort to compliance of provisions of Section 25-F of the Industrial Disputes Act, 1947 the Labour Court has rightly granted the relief of reinstatement with continuity of service and back wages.

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

There is no dispute to the ratio decidendi culled out in the aforementioned judgment, where it has been held that a daily/contractual employee would not be entitled to reinstatement in case it is found that the termination was bad in law, but he can only seek reinstatement in those circumstances, where it has been proved that similarly situated employees have been retained in job and,

therefore, the Labour Court has embarked on a path which was not pleaded case of either of the parties to the *lis*, viz-a-viz the case of regularization and contractual employment.

By applying the ratio decidendi culled out in **B.S.N.L Vs. Bhurumal's case (supra)**, particularly when the respondent was performing duties on daily wages and the fact that he has rendered almost five years service and faced the agony for number of years, I do not deem it appropriate to reinstate him into service, but instead award a consolidated compensation of ₹4,50,000/-.

Accordingly, the writ petition is disposed of and the award of the Labour Court is modified and it is held that the workman-respondent No.1 is entitled to ₹4,50,000/- as compensation. The petitioner-Management is directed to make the payment of compensation to the respondent-workman within a period of three months from the date of receipt of certified copy of this order, failing which it shall entail interest at the rate of 12% per annum.

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

**July 21 , 2015**  
**archana**