

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

I.

Civil Writ Petition No.23232 of 2012

Date of decision: 30.10.2015

Divisional Forest Officer, Forest Division, Kaithal and another

... Petitioners

Versus

Workman Rameshwar and another

... Respondents

II.

Civil Writ Petition No.2545 of 2013

Rameshwar

... Petitioner

Versus

The Presiding Officer, Labour Court, Ambala and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Mayank Sharma, Advocate,
for the petitioner in CWP No.2445 of 2013 &
for respondent No.1 in CWP No.23232 of 2012

Mr.Gaurav Goel, AAG, Haryana
for respondents No.2 and 3 in CWP No.2545 of 2013 &
for the petitioner in CWP No.23232 of 2012

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

RAJIV NARAIN RAINA, J. (Oral)

The aforesaid two writ petitions are cross writ petitions against

the award dated 26.4.2011 passed by the Presiding Officer, Labour Court, Ambala in reference No.49 of 2008 setting aside the order of termination after finding it illegal. The Labour Court has awarded reinstatement with continuity of service but has denied back wages.

The State in its writ petition bearing CWP No.23232 of 2012 contends that the award suffers from errors of law and fact and it is not a case of reinstatement. He supports the award of the Labour Court to the extent it denied the back wages.

The workman contends that he served in the Forest Department as a daily wager from 10.7.1990 till 31.7.2004 serving the department for 14 years. The Labour Court has read the evidence and concluded that the petitioner had completed 240 days in a calendar year preceding the date of termination and other years as well. The management failed to produce the record to substantiate their pleaded case that the workman had not completed 240 days of service. The record was not produced by the management to rebut the assertion of the workman and the Court could have drawn an adverse inference. The Labour Court read the cross-examination of the workman conducted by the management and found it to be ineffective. In the award, there is no discussion of Section 25-F of the Industrial Disputes Act, 1947 though it was a fact asserted by the workman in his pleadings before the Labour Court but this issue need not be gone into since when the notice of motion was issued in this case on 26.11.2012, the operation of the impugned award had been stayed.

Despite the continuance of the stay order, the Court is informed that the petitioner has been reinstated to service and his case for

regularization of his services keeping in view the continuity awarded by the Labour Court is under active consideration of the Government.

In view of this supervening circumstances, the stay is vacated and the State's writ petition is dismissed while the workman's petition is allowed to the extent that the workman would be entitled to full back wages.

(RAJIV NARAIN RAINA)
JUDGE

October 30, 2015
Paritosh Kumar