

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

Civil Writ Petition No.233 of 2012

Date of Decision: May 27, 2015

The Executive Engineer, PWD B&R Div.No.1, Rohtak

...Petitioner

Versus

Smt.Santosh Devi & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.Hitesh Pandit, Addl.A.G.Haryana,
for the petitioner.

Mr.Sandeep Singal, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

Learned counsel appearing on behalf of respondent No.1, on instructions, submits that the workman has been reinstated with continuity of service w.e.f. 1.8.2002, though as per award dated 8.4.2011, she has been held entitled to reinstatement with continuity of service and 50% back wages.

Mr.Hitesh Pandit, Learned Additional Advocate General, Haryana appearing on behalf of the petitioner submits that the workman failed to make averment in the claim petition that she was not gainfully employed during the period she remained out of service and, therefore, in

view of the law laid down by the Hon'ble Supreme Court in **Deepali Gundu Surwase Versus Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) and others, (2013) 10 SCC 324**, the Labour Court has erred in awarding 50% back wages and, thus, seeks indulgence of this Court to modify the award vis-a-vis awarding of 50% back wages.

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

It is an admitted position that as per the claim petition, the workman has not made any averment to the effect that she was not gainfully employed during the period she remained out of service and, therefore, the workman is not entitled to 50% back wages.

Accordingly, the writ petition is disposed of by modifying the award of the Labour Court that the workman shall not be entitled to 50% back wages.

May 27, 2015
ramesh

(AMIT RAWAL)
JUDGE