

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17162 of 2015 (O&M)

Date of Decision: 09.09.2015

M/s Shri Guru Textiles and another

... Petitioners

Versus

The Presiding Officer, Industrial
Tribunal, District Amritsar and another

... Respondents

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

Present: Mr. Amarjit Singh, Advocate,
for the petitioners.

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

RAJIV NARAIN RAINA, J.

I find no cause to interfere with the findings of fact recorded by the Presiding Officer, Industrial Tribunal, Amritsar in the award dated May 12, 2015 that the respondent-workman's services were terminated after long years of service without complying with the provisions of section 25F of the Industrial Disputes Act, 1947 ("the Act"). The labour court has returned proper, just and fair findings on the issues framed after appreciating the evidence both oral and documentary adduced by the parties.

There is neither any fundamental flaw in law or fact nor an error apparent on the face of the record which might vitiate the award or call for disturbing the findings on non-payment of notice pay and retrenchment compensation at the time of retrenchment. The scope of inquiry under Article 226 of the Constitution remains restricted while reviewing the work

of labour courts and tribunals to the extent indicated by the Supreme Court in Syed Yakoob v. K.S.Radhakrishnan, AIR 1964 SC 477 and a host of other precedents since then.

The Labour Court has denied awarding reinstatement and instead awarded a lump sum amount of compensation quantified at Rs.50,000/- in lieu of reinstatement. But in this dispensation the Labour Court has gravely erred while awarding compensation and directing that it would run from the “year he left the job i.e. 2008 till payment @ 9% per annum.” This is improper exercise of jurisdiction.

Therefore, it is clarified that when Labour Courts award compensation in lieu of reinstatement in lump sum figures then compensation or interest on compensation should not be awarded retrospectively from any particular date chosen in the past as both the components are to be factored into the unified decision in awarding lump sum compensation by way of relief. That is what adequate and reasonable compensation is designed and meant for. It would be an antithesis for the labour court to award lump sum compensation and yet talk about the date it would run from and what interest it would earn. To that extent, there is a fundamental flaw in the operative part of the award regarding relief which deserves to be modified as explained in this order. Hereafter, compensation will be represented by the amount of Rs.50,000/-. The directions re. interest are so intrinsically defective that no amount of hearing can alter the legal position except to up the compensation amount by introducing interest built in the decision. This is not the scope of the present proceedings.

If this is the position, this order will not affect the rights of the

workman in case he approaches this Court against the award dated May 12, 2015 praying for reinstatement with full back wages or higher compensation package adding the interest component etc. In case such an action is brought to this Court on writ side it would be needless to say that the award will be examined from all available angles and be decided on its own merits without looking into the reasons contained in this order as it expresses no opinion on the question of relief other than what was awarded by the labour court in a lopsided manner.

With these observations, the petition stands dismissed.

A copy of this order be sent to the respondent for his knowledge since the order is ex parte and decided in limine.

(RAJIV NARAIN RAINA)
JUDGE

09.09.2015
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