

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

Civil Writ Petition No.20466 of 2013 (O&M)

Date of decision: 8.12.2015

Municipal Corporation, Faridabad

... Petitioner

Versus

Presiding Officer and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Jasbir Singh Mor, Advocate,
for the petitioner.
Mrs.Abha Rathore, Advocate,
for respondent No.2.

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

RAJIV NARAIN RAINA, J. (Oral)

1. Having heard Mr. Jasbir Mor for the Municipal Corporation, Faridabad and Mrs.Abha Rathore for the respondent-workman and on having carefully gone through the award passed by the Presiding Officer, Labour Court-I, Faridabad dated February 1, 2013 with their assistance, it appears starkly evident from the perusal of the lower court record requisitioned that the reference of the dispute raised by the respondents espoused by the union of workers was with respect to demand No.8 alone which was the dispute referred for determination by the Labour Court. The dispute between the parties arose out of successive retrenchments were effected by the management on the ground that it was faced by a barrage of litigation brought by the aggrieved workers and the huge expenditure

involve which the Corporation had to bear facing a large number of cases which were decided against them by the labour court granting reinstatement and full back wages. In finding a solution to the burgeoning awards the Corporation and the Union sat together on the negotiating table to hammer out a settlement resolving disputes between themselves and to restore peace and harmony in the workplace, a decision was taken that such workmen would be taken back on duty who wanted to be reinstated without back wages. The number being considerable the decision Ex.WW1/18 was taken that the affected workers will be taken back in service.

2. The factum of the decision Ex.WW1/18 is testified by C.B.Chauhan WW1 President of the Workers' Union in his recorded deposition appearing in the witness box that according to the decision arrived at on February 3, 1995, as many as 600 employees were taken back on duty as per settlement and 117 workers remained to be taken back in the Ballabgarh facility of the Corporation. There is no cross-examination of the witness on the point by the management Corporation and the settlement/compromise was accepted as binding and operational. Thus, the decision taken in the meeting would be deemed to be admitted. It may be noted that 500 workmen were recalled to service as had completed 240 days of service in the Old Zone and in the NIT Zone which were housed in different locations. The present respondents were engaged in Ballabgarh and have been left out of the fruits of the settlement, when not been taken back in service. This was the dispute before the labour court which was thrashed out on the evidence produce by the parties. The Labour Court has expressed its satisfaction by placing faith on the minutes of the meeting and the

settlement arrived at therein, and further has rightly relied on the list of 117 workers whose names stood recorded in Ex.WW21 to 23 and Ex.WW25 to 28 on the basis of which documentary evidence the labour court proceeded to grant substantial relief to them in tune with similarly situated persons who were taken back on the job.

3. In para. 6 of the award, the Labour Court has given reasons for accepting the list of 117 workers as a live list. It is recorded that the lists were prepared partly on January 3, 1995 [93 workers] and partly on May 30, 1995 [24 workers] and that is how the total comes to 117. The first document is signed by Partap Singh, Assistant Engineer and the second by K.P.Singh and the last by the Administrative Officer. The Labour Court has read the evidence on record and found an admission in the oral evidence in the cross-examination of witnesses that almost all the workers were taken back and were later regularized in service. As a matter of fact, the reference itself records that the list was signed and authenticated by the Junior Engineer, Sub-Divisional Officer, Executive Engineer and the Joint Commissioner of the Corporation. If that was the factual position on the ground level, it was then incumbent upon the Corporation to produce the original list which they failed to do, in case they seriously disputed its correctness. Therefore, the Labour Court committed no error in accepting the photocopy of the list produced by the respondent claimants duly supported by the testimony of the witnesses which corroborated the version of the respondent-workers. The Labour Court after appreciating the evidence on record, including the genuineness of the signatures on the documents, after matching the signatures of Partap Singh with his signatures

in his statement before the Court, has held that 117 workers of the Ballabgarh zone who have completed 240 days of service were unduly left out of the deal. As a result, the contentious issue has been decided in favour of the claimants with respect to the sole demand which was referred for adjudication and relief has followed the event.

4. The labour Court has allowed the claim and held that the 117 left out workers named in the list are entitled to be taken back in service by the respondents but without back wages since arrears of wages already stand waived off by them in the settlement which was a condition precedent to reinstatement. The Labour Court has granted continuity of service at par with other workers who were taken back in service under similar circumstances by virtue of the settlement. For the aforesaid reasons the award is found fair and reasonable and the same suffers from no legal infirmity or fundamental flaw of law or fact which may tend to vitiate the proceedings leading to the award. There is no palpable error apparent on the face of the record.

5. Hence, no interference is called for in the award in exercise of the supervisory writ jurisdiction provided under Article 226 of the Constitution of India, which power is not appellate, and for the reasons recorded above, I find no valid ground to tinker with the award and the writ petition is consequently dismissed. There will, however, be no order as to costs.

(RAJIV NARAIN RAINA)
JUDGE

December 8, 2015

Paritosh Kumar