

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

CWP No.26024 of 2013

Date of Decision: 17.8.2015

Suresh Kumar

..... Petitioner

Versus

Presiding Officer and another

..... Respondents

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

Present: Mr. Sandeep Thakan, Advocate for the petitioner

Ms. Vibha Dhiman, AAG, Haryana

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

RAJIV NARAIN RAINA, J. (Oral)

I would not interfere with the impugned award of the Labour Court dated 28th January, 2013 made in Industrial Reference No.93 of 2011 for reasons that follow.

The length of service put in by the petitioner in the respondent- Rani Jhansi Bai Government Polytechnic, Loharu, a government educational institution, was from 1st June, 2008 to 15th June, 2011 which comes to a tenure of about three years on the job of Peon till cessation of his services. The retrenchment has been faulted by the Labour Court on the ground of violation of the conditions precedent in Sections 25-F and 25-H of the Industrial Disputes Act, 1947 (for short "the Act"). Reinstatement to service has been granted. However, back-wages have been denied for the intervening period.

Learned counsel for the petitioner vehemently argues that the Labour Court erred in not granting back-wages as is the normal rule following reinstatement. He cites the Full Bench decision of this Court in **Hari Palace,**

Ambala City v. The Presiding Officer, Labour Court and Anr., ILR 1979

(P&H) 243. However, while the Full Bench culled out the principle, it also held that departure from the normal rule of granting back-wages could be made if there were sufficient reasons necessitating departure for taking a view different. In the present case, the retrenchment has been faulted on grounds of breach of Sections 25-F and 25-H of the Act, although persons junior to the petitioner were retained in service whilst the petitioner's services were dispensed with.

There is another reason why I would not interfere with the award of the Labour Court which is that the period of service rendered is three years which is neither of prolonged duration nor is exploitative in nature. To the mind of this court the award of the labour court by and large serves the ends of justice as the petitioner has been reinstated in service and again holds public employment and may be protected by service rules and the Constitution, in case his services are regularized in the future if there is a policy which helps him. In any case, this Court has been guided by a catena of judgments of the Supreme Court that when discretion has been exercised judicially and judiciously by the Labour Court, interference under Article 226 of the Constitution should ordinarily be not resorted to unless the findings suffer from an inherent error of jurisdiction, perversity or a fundamental flaw apparent on the face of record.

The area of interference against awards of Courts and Tribunals by the High Court is indicated by the Supreme Court in the lead ruling in **Syed Yakooob v. K.S. Radhakrishnan**, AIR 1964 SC 477. The limited role High Courts have in judicial review of awards of Labour Courts and Tribunals has been explained recently by the Supreme Court in a spate of judgments including in **Shalini Shyam Shetty & Anr. v. Rajinder Shankar Patil**, (2010) 8 SCC 329; **Jai Singh & Others v. Municipal Corporation of Delhi & Anr.**, (2010) 9 SCC 385; **Harjinder Singh v. Punjab State Warehousing Corporation**, (2010) 3 SCC 192 and **Anoop Sharma v. Executive Engineer**,

Public Health Division No 1, Panipat, Haryana, (2010) 5 SCC 497.

For the foregoing reasons, I find no ground meriting interference with the award of the Labour Court. This writ petition is accordingly dismissed.

**(RAJIV NARAIN RAINA)
JUDGE**

**17.8.2015
MFK**