

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

CWP No.5752 of 2012
Date of decision : 14.05.2015

The Director Transport, UT, Chandigarh

...Petitioner

Versus

Presiding Officer and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Vikas Chatrath, Advocate &
Mr. Rakesh Sobti, Advocate
for the petitioner.

Mr. H.S. Hundal, Advocate
for the respondent No.2.

AMIT RAWAL, J. (Oral)

Challenge in the present writ petition is to the award dated 11.08.2011 (Annexure P-13), whereby reference has been decided in favour of the respondent No.2-workman and the Labour Court has held that workman is entitled for reinstatement with consequential benefits and full backwages.

Mr. Vikas Chatrath, learned counsel appearing on behalf of

petitioner submits that Labour Court has committed illegality and perversity in granting the backwages, much less, relief of consequential benefits.

In order to lend support to the aforementioned plea, he has drawn the attention of this Court to the demand notice, whereby the workman has not averred or pleaded that he was not gainfully employed for the period he remained out of service.

I have gone through the demand notice. It is true that there is no averment, much less, any pleading to that fact and in view of law laid down by Hon'ble Supreme Court in Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.Ed) & others 2013(10) SCC 324, whereby, it has been held that where workman has categorically not pleaded and averred that he was not gainfully employed for the period he remained out of service, he is not entitled to back wages.

Thus, in present case, in the absence of the pleadings, workman-respondent No.2 is not entitled to back wages accordingly the award of the Labour Court to that extent is set aside.

As regards the grant of consequential benefits, relief is modified and shall be treated as reinstatement with continuity of services.

The plea of Mr. Vikas Chatrath, learned counsel for the petitioner that Labour Court ought not to have reinstated the workman do not have any force in view of the fact that there is categoric finding

that enquiry was not conducted in a fair and appropriate manner.

Management is directed to reinstatement the respondent No.2-workman after sending him notice to join back on duty & this exercise should be done within a period of 45 days from the receipt of certified copy of this order.

With the aforementioned modification, the award of the Labour Court is modified.

Accordingly, writ petition stands disposed of.

14.05.2015

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**(AMIT RAWAL)
JUDGE**