

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

Date of decision:2.11 2015

CWP No.23305 of 2015

The Divisional Forest Officer, Bhiwani ... Petitioner

Versus

Suresh & anr. ... Respondents

CWP No.23360 of 2015

The Divisional Forest Officer, Bhiwani ... Petitioner

Versus

Smt. Krishna & anr. ... Respondents

CWP No.23376 of 2015

The Divisional Forest Officer, Bhiwani ... Petitioner

Versus

Smt. Bhateri & anr. ... Respondents

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

Present: Mr. J.S. Bedi, Addl. A.G., Haryana,
for the petitioner.

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. This order will dispose of writ petitions bearing Nos.23305, 23360 and 23376 of 2015 as common questions of law and fact are involved in them which can conveniently be decided by a common order.

The facts are taken from CWP No.23305 of 2015 for convenience.

2. The Labour Court has partially allowed the reference by awarding reinstatement and continuity of service, but has denied back wages to all the three workmen. They are not before the Court as yet to

challenge the back wages part of the award and in case they approach this Court, their petitions will be heard on merits without being influenced by anything said in this order.

3. The respondent-workman in the lead petition was appointed as a daily wager to work under the Divisional Forest Officer (Territorial), Bhiwani. He served for 3 years and 7 months and thereafter his was terminated arbitrarily without resort to meeting the prerequisites involved in mandatory compliances of the procedure in Section 25-F of the Industrial Disputes Act, 1947 [for brevity the “Act”] inasmuch as neither reasons were assigned for termination nor notice was given, nor one months' wages in lieu of notice not to speak about abject failure to pay retrenchment compensation at the time of retrenchment. The aggrieved worker deprived of livelihood raised a dispute which failed to be settled at the level of the conciliation officer and that is how the dispute was referred to the labour court for adjudication.

4. In the reference proceedings the management failed to produce evidence on all the jurisdictional issues on which relief can be based and the Labour Court drew an adverse inference, which was permissible, as a result of non-production of evidence per contra to decline relief and thus held on such premises that the period of service spent by the present respondent, and the respondents in the accompanying petitions, was for a duration of about over 3 years of uninterrupted and continuous service within the meaning of Section 25-F read with Section 25-B of the Act. The labour court has answered the reference against the petitioner department of Government. The

termination has been held to be illegal and void ab initio.

5. I have heard Mr. J.S. Bedi learned Additional AG, Haryana appearing for the State but despite all his persuasion this Court is not inclined to interfere with the award as it does not suffer ex facie from any fundamental flaw of law or of reasoning as is adopted by the learned Labour Court in arriving at the findings of fact after appreciating the evidence on record that the termination was illegal to start with which findings are not open to be disturbed casually in the narrow supervisory jurisdiction of this Court bestowed by Art. 226 of the Constitution, which is not appellate, while reviewing the original work of labour tribunals especially in a case where judicial discretion has been exercised in a proper and wholesome manner and within the parameters of awardable relief. Neither do I find any error apparent on the face of the record and by applying the law articulated and expounded recently by the Supreme Court in **Fisheries Department, State of Uttar Pradesh v. Charan Singh**, (2015) 8 SCC 150=2015(2) SCT 597 after noticing past precedents that State has no case at all for admission of the petitions for any further debate notwithstanding that reinstatement is not automatic. There are no inhibiting factors which might keep at bay relief present in the three cases. To reach this conclusion, this Court would also apply the decisions involving the Forest Department, Haryana rendered by this Court in **Chinti Devi v. Presiding Officer**, (2013) 3 SCT 597 and **Damyanti v. Presiding Officer**, 2012 (4) RSJ 704 where such like retrenchments have been deprecated as not to pass muster of judicial review. No ground for interference is made out in any of the three cases

under consideration. The work of the labour court granting relief of reinstatement and continuity of service for illegal termination is upheld as within the confines of law and jurisdiction vested in the court *a quo*.

6. Accordingly, the petitions are found without substance and are ordered to stand dismissed.

**(RAJIV NARAIN RAINA)
JUDGE**

2.11.2015
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