

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

Civil Writ Petition No.24016 of 2015

Date of decision: 16.11.2015

Sun Pharmaceutical Industries Limited

... Petitioner

Versus

Presiding Officer and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.M.P.S.Mann, Advocate,
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)

Having heard Mr.Mann learned counsel appearing for the petitioner at sufficient length on the merits of the case, this Court has turned around to the view that interference with the impugned award passed by the Presiding Officer, Industrial Tribunal, Gurdaspur in Reference No.69 of 2008 is not called for. Of the several reasons why this Court would not like to interfere with the award is that the management failed to prove on facts after contest that the workman, a Medical Representative employed by it seventeen years ago had remained absent from duty from June 16, 2007 till his services were terminated on October 30, 2007. The severance was without show cause notice, a charge sheet or inquiry held against the respondent workman with respect to the alleged period of absence from

June 16, 2007 till October 30, 2007.

When the management has failed on this vital front, it would be very difficult to hold that there is an error in the award which may tend to vitiate the proceedings. Admittedly, the respondent-workman served Ranbaxy Laboratories Limited from May 7, 1990 till his services were terminated illegally on October 30, 2007.

It happened in the meanwhile that M/s Ranbaxy Laboratories Limited merged with Sun Pharmaceutical Industries Limited by a process of amalgamation approved by the Company Court and that is how, M/s Sun Pharmaceutical Industries Limited is before this Court challenging the award as a liability incurred by it consequent upon amalgamation and merger of the companies.

Mr. Mann has not been able to dislodge any of the jurisdictional facts established on record with respect to the status of the Medical Representative as a workman or with respect to completion of 240 days of service in the preceding 12 calendar months from the date of termination and absence of meeting prerequisites in the provisions of Section 25-F of the Industrial Disputes Act, 1947 when neither notice nor wages in lieu of notice and retrenchment compensation were paid to the workman on the fateful day i.e. on October 30, 2007 when he lost his livelihood.

The Labour Court has held the termination to be illegal. It is well settled that void termination can take no effect and the workman has to be put back to the original position that he held but for the illegal termination. Reference may be had to the recent judgment of the Supreme Court in **State of U.P. v. Charan Dass**; (2015) 8 SCC 150. It would not be

necessary to burden this judgment and order with a discussion on the weight of ratio of each of the cases starting from **Harjinder Singh v. Punjab State Warehousing Corporation Limited**; (2010) 3 SCC 192, **Anoop Sharma v. Executive Engineer, Public Health Division No.1, Panipat**; (2010) 5 SCC 497, **Devinder Singh v. Municipal Council Sangrur**; (2011) 6 SCC 584, **Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya & Ors**; (2013) 10 SCC 324 and **Jasmer Singh v. State of Haryana and another**, (2015) 4 SCC 458. Suffice it to say a termination which is void *ab initio* puts victim back to square one with all consequential benefits when there are present hardly any obstacles in the way to reinstatement and the defences available to management are of no moment.

In view of the clear legal position, the Labour Court committed no fundamental error in the award dated March 3, 2015 when it set aside the termination order, reinstated the workman with continuity of service but denied 50% of the back wages from the date of termination and ordered that balance 50% would be due and payable together with all other consequential benefits. However, the claim for an amount of ₹ 91,920/- has been declined by the Labour Court for good and sufficient reason.

This Court finds no error apparent on the face of the record warranting interference in the writ jurisdiction while reviewing awards of tribunals as there is neither perversity nor irrationality nor is there found any gross misreading of evidence adduced by the parties on record and findings arrived therefrom.

Consequently, the petition is found without merit and is ordered to be rejected in limine as not requiring any further probe based on original

record or debate in absence of moot points.

(RAJIV NARAIN RAINA)
JUDGE

November 16, 2015
Paritosh Kumar