

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

**CWP No.28315 of 2013 (O&M)
Date of decision: 13.05.2015**

Rajvir Singh

... Petitioner

Vs.

Presiding Officer, Industrial Tribunal-cum-
Labour Court, Hisar, and others

... 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. Pankaj Jain, Advocate
for the petitioners (in CWP Nos. 28315, 28536, 28537, 28539, 28540, 28541, 28543, 28544, 28546, 28548, 28549, 28550, 28551, 28595, 28597, 28598, 28600, 28601, 28603, 28604, 28607, 28608 of 2013.)
for respondent No.2 in CWP No.24436 & 24393 of 2013.

Mr. Jagat Singh, Advocate
for the petitioner (in CWP Nos.24393 and 24436 of 2013)
for respondent No.3 in all writ petitions except 24393 & 24436 of 2013.

Mr. Gaurav Mohunta, Advocate
for respondent No.3 (in CWP No.24393 of 2013).

Mr. P.S.Poonia, Advocate
for respondent No.2 (in CWP No.28315 of 2013)
for respondent No.3 (in CWP No.24436 of 2013).

AMIT RAWAL J. (Oral)

This order of mine shall dispose of 24 writ petitions
bearing CWP Nos.28315, 28536, 28537, 28539, 28540, 28541,

28543, 28544, 28546, 28548, 28549, 28550, 28551, 28595, 28597, 28598, 28600, 28601, 28603, 28604, 28607, 28608, 24393 and 24436 of 2013, as similar questions of law and facts are involved.

For the sake of convenience, the facts are being taken from CWP No.28315 of 2013.

The workmen have approached this Court by challenging the Award passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar, whereby, the workmen have been held entitled to be reinstated into service with all consequential benefits but, for, back wages with immediate effect.

In the claim petitions, there is no specific averment made by the workmen, as to whether, they had been gainfully employed, during the period, they remained out of job, except a bald statement.

The other contention of the petitioners that they were employees of respondent No.2-Dakshin Haryana Bijli Vitran Nigam and not of the Haryana Ex-Services League.

In view of the aforementioned, claim sought by the petitioners, it does not meet with the requirement of law/principles culled out by the Hon'ble Supreme Court in Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyalya and others **2013 (10) SCC 324.**

In the absence of any specific averment in the claim petitions, workmen have rightly been declined the back wages. Since the workmen have failed to plead in the claim statement that they

were not gainfully employed during the period, they remained out of job, workmen are not entitled to back wages in view of the ratio descendi culled out by Hon'ble Supreme Court in Deepali Gundu's case (supra).

The Labour Court after considering the documents placed on record found that there was no relationship of employer and employee between the petitioner and the Nigam but it was between the petitioner and the HESL. It was the HESL which used to supply the work force to carry out contractual work as per contract agreement. The petitioners-workmen at page Nos.7 to 10 of the grounds of writ petition narrated the aims and objects of respondent No.3- HESL, which has been registered under the Societies Registration Act. Since, the Labour Court had no occasion to ponder on the aims and objects of respondent No.3 nor was required to express any opinion on such proposition. Since, the agreement had been entered into between the HESL and the Nigam, there is no relationship of the employer and employee between the petitioners and the Nigam.

Accordingly, the Awards of the Labour Court are upheld and the writ petitions stand dismissed.

(AMIT RAWAL)
JUDGE

May 13, 2015
savita