

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: August 07, 2015

1. CWP No.3117 of 2013

Director, Rural Development and Panchayats, Punjab & another

...Petitioners

Versus

Jarnail Singh & another

...Respondents

2. CWP No.21946 of 2014

Jarnail Singh

...Petitioner

Versus

The Director, Rural Development and Panchayats, Punjab & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

Present: Mr.V.Ramswaroop, Addl.A.G.Punjab,
for the petitioners (in CWP No.3117 of 2013) &
for respondent Nos.1 & 2 (in CWP No.21946 of 2014).

Mr.K.G.Chaudhary, Advocate,
for respondent No.1 (in CWP No.3117 of 2013) &
for the petitioner (in CWP No.21946 of 2014).

AMIT RAWAL, J. (Oral)

By this common order, I intend to dispose of Civil Writ Petition

Nos.3117 of 2013 filed by the Management and Civil Writ Petition

No.21946 of 2014 filed by the workman against the award dated 1.11.2012 as the common question of law and facts is involved in both the cases. The facts are being taken from CWP No.3117 of 2013.

The Labour Court vide award dated 1.11.2012 allowed the reference of the workman by ordering that he is entitled to employment as Peon on daily wages as a fresh appointee.

Mr.V.Ramswaroop, learned Additional Advocate General appearing on behalf of the State submits that since the workman was appointed on daily wages and, therefore, the award of the Labour Court is bad in law as it could not have directed the Management to give appointment letter to the workman as Chowkidar by considering him as a fresh appointee.

Mr.K.G.Chaudhary, learned counsel appearing on behalf of the workman submits that once the Labour Court has rendered a finding that there has been violation of provisions of Section 25-F of the Industrial Disputes Act, 1947, the Labour Court was not enjoined upon an obligation to grant such relief as the petitioner has rendered service of six years.

I have heard the learned counsel for the parties and appraised the paper book.

It is a matter of record that the workman has continuously rendered the service with the Management from July, 1994 till 19.3.2001 and the appointment of the petitioner was not under challenge, but only the period. According to the Management, the workman had worked upto December, 2000, but, however, umpteen number of documents, i.e., Ex.R2 to Ex.R13, have been brought on record in support of the pleading that he

worked upto March, 2001.

Once such an evidence has been led and proved on record, there was no occasion for the Labour Court to grant relief, as has been noticed above.

The workman has raised the demand notice immediately thereafter. In the writ petition filed by the Management, order dated 14.10.2014 was passed whether the workman has been given appointment afresh on daily wages, however, no such information has been provided to the Court with regard to the aforementioned observation recorded in the order. The order dated 14.10.2014 reads thus:-

“Let learned State counsel seek instructions regarding implementation of the award by taking the respondent back on daily wage basis as a fresh measure. In case such instructions do not fructify by the date fixed, the Court shall be at liberty to consider the award and grant appropriate compensation to the respondent.

Adjourned to 14.11.2014.”

It is now well settled that if it is found that the workman has worked for more than 240 days and there has been violation of the provisions of Section 25-F of the Industrial Disputes Act, 1947, the reinstatement is not automatic.

Since the Management has not given any offer to the workman, as submitted by Mr.Chaudhary, during the pendency of the writ petition in pursuance to the directions contained in the award and the fact remains that for long period, the workman had been out of service and there is no proof whether there was availability of work for such post or not, I deem it

appropriate to grant consolidated compensation of ₹5,00,000/- lacs, to be paid by the Management, keeping in view the ratio culled out in the judgment rendered in B.S.N.L. Versus Bhurumal, 2014(7) SCC 177. The Management is directed to make the payment of the aforementioned amount of compensation within a period of three months from the date of receipt of certified copy of this order, failing which it shall entail interest @12% per annum.

With the above observations, CWP No.3117 of 2013 is allowed and CWP No.21946 of 2014 is dismissed.

August 07, 2015
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(AMIT RAWAL)
JUDGE