

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

**CWP No.8686 of 2012
Date of decision : 16.10.2015**

Engineer in Chief, Haryana

.... Petitioner

Versus

Presiding Officer & anr.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Vibha Dhiman, AAG, Haryana.

Mr. Ravinder Rana, Advocate
for respondent No.2.

RAJIV NARAIN RAINA, J. (Oral)

1. As a result of the interim order the State has filed this petition challenging the award passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT, Chandigarh dated 17.01.2012.

2. The termination order has been set aside being illegal and the petitioner-management has been directed to reinstate the workman with continuity of service and 30% back wages. The reinstatement order was to be implemented in three months but the monetary benefits were made payable in six months from the date of publication of award. The workman/respondent No.2 worked as skilled Carpenter in the Haryana PWD (B&R), Chandigarh from 01.01.1996 till his services were abruptly terminated on 01.01.2005 by which time he had put in 9 years of service. The termination was brought about without complying with the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred as 'the Act, 1947') when neither notice nor wages in lieu of the period of notice nor retrenchment compensation was paid at the time of termination,

the termination was not legally sustainable.

3. The story built by the department is that the workman was employed through a contractor and he was a contractual employee but this plea did not meet favour of the labour court, which hold there was a direct relationship of employer and employee between the parties. The Labour Court examined the evidence of the management and read the deposition of Vimal Jain- AW2 and the other documentary evidence Ex.W15 to W93, which supported the case of the workman on all the jurisdictional facts required to be established to claim relief in a labour court.

4. When this matter came up for hearing, this Court was pleased to issue notice of motion on 10.05.2012. Payment of back wages was stayed subject to reinstatement of respondent No.2 -workman in service. The interim order was not appealed against and has continued to run its course. By the interim order the management was also directed to take back the petitioner in service within two weeks. As a result of the interim order, the petitioner was taken back in service and has continued to serve the management since then. It would thus be wholly unfair at this stage to displace the petitioner looking to the fact that he had served 9 years where his employment was truncated by an illegal order violating the provisions of Section 25-F of the Act, 1947.

5. I find no fundamental error in the award of the labour court and impugned award is held to be sound in law which does not suffer any palpable infirmity which might vitiate the award. The labour Court has already given substantial relief in favour to the petitioner by awarding 30% back wages which is just and proper dispensation of justice in the labour court.

6. For these reasons, I would not like to interfere in this matter for no valid cause or legal justification. As a result, the present petition is without substance and is ordered to stand dismissed without costs.

16.10.2015
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(RAJIV NARAIN RAINA)
JUDGE