

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: March 12, 2015

1. CWP No.3588 of 2013

Mukesh Kumar

...Petitioner

Versus

MS Starex International School, Village Binola, P.O. Borakala, NH-8,
Delhi-Jaipur Highway, Gurgaon & another

...Respondents

2. CWP No.3621 of 2013

Joginder Singh

...Petitioner

Versus

MS Starex International School, Village Binola, P.O. Borakala, NH-8,
Delhi-Jaipur Highway, Gurgaon & another

...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.G.S.Bal, Senior Advocate with
Mr.ADS Bal, Advocate,
for the petitioners in both the petitions.

None for the respondents.

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of two Civil Writ Petition Nos.
3588 and 3621 of 2013 as the common question of law and facts is involved

in both the petitions. For the adjudication of the writ petitions, the facts are being taken from CWP No.3588 of 2013.

The claim in CWP No.3588 of 2013 is to set-aside the award dated 28.8.2012 (Annexure P-6) passed by the Labour Court, Gurgaon, whereby the petitioner-workman has been given compensation of ₹42,000/- along with interest @ 9% per annum despite the fact that it has come on record that the petitioner-workman had worked w.e.f. 7.3.2001 to 8.10.2008 and the Labour Court, while rendering the finding in paragraph 14 of the award, held that the termination of the petitioner was in violation of the provisions of 25-F of the Industrial Disputes Act.

There is no representation on behalf of the respondent-Management despite the receipt of the summons of the writ petitions. It is also a matter of record that the respondents were proceeded against *ex-parte* before the Labour Court.

Mr.G.S.Bal, learned Senior Counsel appearing for the petitioner-workman, in support of his contentions, submits that since the workman had worked for seven years and had completed 240 days in each calendar year, the compensation should not have been the proper relief. In support of his contention has relied upon the Full Bench judgment of this Court in **Municipal Council, Dina Nagar, Tehsil & Distt.Gurdaspur Versus Presiding Officer, Labour Court, Gurdaspur and another, 2014** (4) S.C.T. 514 and as well as the judgment of the Hon'ble Supreme Court in **Jasmer Singh Versus State of Haryana & Anr.** rendered on 13.1.2015 in Civil Appeal No.346 of 2015 (arising out of S.L.P.(C) No.1532 of 2014).

Once the Labour Court has returned a finding in favour of the

workman, there has been clear cut violation of provisions of Section 25-F of the Act and, therefore, the reinstatement of the workman was warranted. Thus, the award of the Labour Court dated 28.8.2012 (Annexure P-6) is set-aside and the workman is ordered to be reinstated with continuity of back wages.

As far as the payment of the back wages is concerned, no evidence has been brought on record to show that the workman had been gainfully employed during the period he remained out of service and, therefore, this Court would have no option but to consolidate the amount of compensation to the workman instead of ordering the full back wages. Keeping in view the fact that already a compensation of ₹42,000/- along with interest @ 9% per annum has been awarded to the petitioner-workman, the compensation would be just and fair in lieu of the back wages.

The writ petitions are disposed of accordingly.

March 12, 2015
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(AMIT RAWAL)
JUDGE