

CWP No. 3713 of 2013
Date of decision: 30.11.2015

Sanjay

...Petitioner

versus

Presiding Officer and another

...Respondents

Coram: Hon'ble Mr. Justice Rajiv Narain Raina

Present: Ms. Abha Rathore, Advocate
for the petitioner.Mr. Kamal Rathi, Advocate for
Mr. Babu Bhan, Advocate
for respondent No. 2.**Rajiv Narian Raina, J.(Oral)**

1. The finding of the fact returned by the Labour Court, Panipat is that the management terminated the services of workmen without following the due procedure under Section 25-F of the Industrial Disputes Act, 1947 (for short 'the Act').

2. This order will dispose of two writ petitions i.e. CWP No. 3713 of 2013 and CWP 3848 of 2013 as identical questions of law and facts arise in them. The facts are taken from CWP No. 3713 of 2013 for brevity.

3. The period of service in both the cases is from 22.09.2003 till 31.07.2004. Though the management had disputed this period but the truth was revealed when Surinder Singh, Head Time Keeper working with the respondent Panipat Sugar Mills Ltd., Panipat in cross-examination admitted the period of service and testified that the claimants had been removed from service without giving them notice pay, charge sheet, compensation etc. It

is admitted that after removing the claimants, the Mills had engaged new

daily wage workers on need basis. In the face of this admission, the labour court fell in error in demanding corroboration of evidence of the workman to prove the jurisdictional fact of completion of 240 days of service as required by Section 25-B of the Act read with Section 25-F of the Act. For this reason, the impugned awards are not sustainable as they suffer from fundamental flaw in misreading the evidence on record and in not appreciating the probative value of the cross-examination of the witness who spoke the truth in favour of the workers. As a result, the impugned awards are set aside as they suffer from an error apparent on the face of the record, as explained above. No other corroborative evidence was required to buttress the deposition in the cross-examination of witness which nails the lie of the management that the workers had worked only for 218 days in the establishment and therefore, had not developed industrial rights.

4. However, on consideration of relief there is no doubt that the length of service of both the petitioners falls in the category of cases which are too brief in duration of employment and therefore, it may not justify at this stage and passage of time to re-instate the workman after setting aside the award of the labour court. It would be more appropriate to apply the principle of compensation in lieu of reinstatement and to remain guided by the rulings of the Supreme Court in ***BSNL vs. Man Singh*, (2012) 1 SCC 558; Asst. Engineer, Rajasthan Development Corporation and Anr. vs. Gitam Singh**, (2013) 5 SCC 136; ***Devinder Singh vs. Municipal Council, Sanaur*, (2011) 6 SCC 584, BSNL vs. Bhurumal**, (2014) 7 SCC 177 etc. where compensation packages have ranged from Rs. 50,000/- to Rs. 3 lacs for shorter periods of service. There are cases in which higher compensation levels have been granted and a recent view is expressed by the Division

Bench in *Municipal Council, Dina Nagar vs. Presiding Officer, Labour Court, Gurdaspur, (2015) 1 RSJ 765* where a sum awarded is Rs. 1 lac for every completed year of service rendered before termination.

5. In view of the above case law, the compensation in these cases would be adequate and reasonable to the mind of this Court if it awards Rs. 1 lac to each of the workmen as compensation in lieu of reinstatement. The writ petitions i.e. CWP No. 3713 of 2013 and 3848 of 2013 are allowed to the extent indicated and the impugned awards of the labour court are set aside.

30th November, 2015.
Shivani Kaushik

(RAJIV NARAIN RAINA)
JUDGE