

**216 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH**

**CWP No.5473 of 2013
Date of Decision: 21.05.2015**

Post Graduate Institute of Medical Education & Research and another

..... Petitioners

VERSUS

Presiding Officer and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajesh Garg, Sr. Advocate with
 Ms. Nimrata Shergill, Advocate
 for the petitioners.

 Mr. R. K. Bansal, Advocate
 for respondent No.2.

AMIT RAWAL J. (ORAL)

The present petition has been filed at the behest of the management against the award dated 06.11.2012 whereby the reference made by respondent No.2-workman has been answered in favour of the workman and the workman has been held entitled to reinstatement and with continuity of service along with 50% back wages.

Mr. Rajesh Garg, Sr. Advocate for the petitioners submits that the petitioner was appointed on a project vide appointment letter dated 17.10.2001(Annexure P-2) and on cessation of the work, the services of the petitioner could be dispensed with and therefore, it cannot be termed as retrenchment as per Section 25 of the Industrial Disputes Act, 1947 and rather the such case would fall within the ambit of Section 2(oo)(bb) of the Industrial Disputes Act.

Learned counsel appearing on behalf of respondent No.2 states that the petitioner was appointed on October 2001 and continued till 31.03.2003. Though the project was only upto 31.03.2002 and therefore, after expiry of the period of the project, the workman still continue and therefore, there was a relationship between the employer and the employee i.e. management before retrenchment of the services of the workman has to pay the compensation as per Section 25F of the Industrial Disputes Act and therefore, it is submitted that there is no illegality in the award.

I have heard learned counsel for the parties.

Before advertng to the controversy between the parties to the lis it would be apt to refer to the letter of appointment which reads thus:-

"Similarly, if you wish to resign/quit your post you may do so by depositing with the institute your salary and allowance in lieu of the notice in respect of the period by which it falls short of one month".

From the terms of the appointment letter, it is evident that the appointment of the petitioner was on account of the availability of the workman i.e. ICMR and its services were to be automatically stood terminated on cessation of the work.

The applicability of the provisions of Section 2(oo)(bb) of the Industrial Disputes Act is no longer *res integra* . It is settled law that where the person has been employed for a particular period and a

particular project and there is no availability of such work or project then the termination of services of workman as the result of demand during the contract of employment between the employer and the workman would not be termed as retrenchment as per section 25F of the Act but would fall under Section 2(oo)(bb) under Section 25 F of the Industrial Disputes Act. The workman in the demand notice did not plead or aver that he has not been gainfully employed. He remained out of service, therefore, the award of the labour Court awarding compensation of 50% backwages is also erroneous. The employment of the workman was for a particular period and a particular project, the services automatically stood terminated.

Thus, cannot be termed to be in violation of provisions of section 25F of the Industrial Disputes Act.

Accordingly the writ petition is allowed and the impugned award dated 06.11.2012 is set aside.

(AMIT RAWAL)
JUDGE

21.05.2015
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