

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

Civil Writ Petition No.5219 of 2014

Date of decision: 11.12.2015

Naib Singh

... Petitioner

Versus

Presiding Officer, Industrial Tribunal, Patiala and another.

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Animesh Sharma, Advocate,
for the petitioners in CWP No.5219, 5201, 5203, 5218,
5221, 5234 and 9665 of 2014.

Mr.Chandeep Singh, Advocate, for
Mr.Sandeep K. Sharma, Advocate,
for the petitioners in CWP No.7702, 7752, 7877 and
7879 of 2014.

Mr.Vikas Mohan Gupta, Advocate with
Ms.Sonal Datta, Advocate,
for respondent No.2.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

This order will dispose of the following 11 writ petitions as all
these writ petitions involve common questions of law and fact and arise out
of similar awards passed by the Presiding Officer, Labour Court, Patiala :-

<i>S.No.</i>	<i>Case No.</i>	<i>Particulars</i>
1.	5219 of 2014	Naib Singh v. P.O.I.T., Patiala and another
2.	5201 of 2014	Ramu v. P.O.I.T., Patiala and another
3.	5203 of 2014	Lajja Ram v. P.O.I.T., Patiala and another
4.	5218 of 2014	Darshan Singh v. P.O.I.T., Patiala and another
5.	5221 of 2014	Ram Kumar v. P.O.I.T., Patiala and another
6.	5234 of 2014	Raj Kumar v. P.O.I.T., Patiala and another
7.	7702 of 2014	Gian Chand v. P.O.I.T., Patiala and another
8.	7752 of 2014	Balwinder Singh v. P.O.I.T., Patiala and another
9.	7877 of 2014	Dalbir Singh v. P.O.I.T., Patiala and another
10.	7879 of 2014	Joginder Singh v. P.O.I.T., Patiala and another
11.	9665 of 2014	Mohinder Singh v. P.O.I.T., Patiala and another

2. Reference to relevant facts is not necessary for determination of these cases since a finding of fact has been returned by the labour court in each of the references that there has been flagrant violation of the provisions of the Industrial Disputes Act, 1947 at the hands of the management which render the terminations illegal and *ab-initio* void. While denying reinstatement in each of the cases the Labour Court has restricted compensation in lieu of reinstatement to only ₹ 5000/- per year of service rendered. The compensation package in these cases is found wholly inadequate and unreasonable in the considered opinion of this court seen in the light of past precedents and reference to some of them is noticed below.

3. The references of the identical disputes by the appropriate government was in 2006 and all the awards have been passed in the year 2013 against which the present petitions have been filed by the respective workmen aggrieved by the awards in denying substantial relief which appeared due in their favour. The respondent-Punjab Financial Corporation is satisfied with the awards since it has not approached this Court assailing them.

4. In the matter of grant of compensation in lieu of reinstatement, this Court is guided by the precedents of the Supreme Courts, High Courts including this Court in various cases to which reference need not be made as they are well known. Suffice it to say that compensation in the recent times has ranged from ₹ 50,000/- for 240 days of service in **Assistant Engineer, Rajasthan Development Corporation and Another v. Gitam Singh**, 2013 (5) SCC 136 for breach of Section 25-F of the ID Act. Reference to only the few basic judgments may be necessary without elaboration on a large number of decisions which are of help in choosing the golden mean of compensation by trying to strike a balance between under and over-compensation. The compensation awarded in cases such as **BSNL v. Man Singh**, (2012) 1 SCC 558 and **BSNL v. Bhirumal**, AIR 2014 SC 1188 have ranged from ₹ 2 lacs to 3 lacs for about one year and 3 years respectively of documented service.

5. Nearer home, the Division Bench of this Court in LPA No.754 of 2010: **Municipal Council, Dina Nagar, Tehsil & Distt. Gurdaspur v. Presiding Officer, Labour Court, Gurdaspur & Anr.** 2015 (1) RSJ 765 (DB) has awarded ₹ 1 lac compensation for every completed year of service in a situation where posts of Peons had been declared surplus by the Municipal Council, Dina Nagar and there were no availability of work left for reinstatement.

6. In another Division Bench decision arising in LPA No.32 of 2015 and connected cases in **Delhi Public School, Panipat v. Angrejo Devi and another**, the Hon. Presiding Judge of the Division Bench who was the Hon. Presiding Judge in *Municipal Council, Dina Nagar's* case [supra]

disposed of the matter as settled between the parties and compensation to four of the workmen was awarded @ ₹ 65,000/- for every year of service rendered by them. This was in lieu of their reinstatement with back wages as were ordered by the Single Judge in *Angrejo Devi, Wazir, Krishna Devi and Chander Bhan cases* where reinstatement to service with continuity but without back wages had been ordered. This amount represents what is believed to be just and adequate compensation package.

7. Mr.Animesh Sharma appearing for the workmen cites the decision of this Court in CWP No.24153 of 2011 decided on 12.12.2014; *Jaswinder Singh v. the Presiding Officer and others* and 13 connected writ petitions where relief was granted in the following terms : -

“11. I find no reason in principle not to follow suit in the present cases which also involve municipal service and would import broadly the compensation model evolved but with one difference that the posts continued in that case to exist after termination of the workers therein but in the present case the workers were rendered redundant with the modernisation of Tubewells when a decision was taken by the Municipal Committee, Moga to adopt the outsourcing system instead of hiring hands directly. This difference may justify to my mind a cut from the above compensation model. By keeping this difference in view I would broadly approximate peons with pump operators in rank and status and direct that the impugned awards in the present batch of cases will stand modified by placing a cut of ₹ 25,000 from ₹ 1 lac awarded by the Division Bench and monetary compensation will stand enhanced from ₹ 40,000/- lump sum to ₹ 75,000/- per year of service spent by each of the petitioners. The amounts of compensation are to be read in terms of the table placed below.”

8. Mr.Sharma has produced a chart for the assistance of this Court designed in the same manner as was tabulated in *Jaswinder Singh's* case [supra] which shows the length of service and the amounts granted by this Court as compensation in lieu of reinstatement. In case, compensation is granted keeping in view the compensation granted in LPA No.32 of 2015 and connected cases @ ₹ 65,000/- for every year of service rendered with the Corporation before the termination orders were passed then it may fairly be conceded that the cases be closed by awarding packages to each of the petitioning workmen at the rate equivalent to compromised award amount in *Angrejo Devi* case.

9. This dispensation by way of relief appears to this Court to be just and appropriate to balance out the conflicting interest of both the parties. A cut from ₹ 1 lac awarded in *Municipal Council, Dinanagar's* case [supra] is effected by accepting the submission of Mr.V.M.Gupta that Punjab Financial Corporation is facing financial crunch. Besides that the petitioners were engaged for performing watch and ward duties of properties taken over by the Corporation under Section 29 of the State Financial Corporations Act, 1951 Though it has not been disputed with any vehemence that even though the work of the Corporation has drastically scaled down to survival levels but there are still several companies taken over by the Corporation where watch and wards duties are still being performed but those workmen may be senior to the present petitioners in terms of priority from the dates of original engagement.

10. Without going into this factual dissection, in the considered view of this Court, it would suffice if this writ petition is allowed

deservedly for the reason the Labour Court has fallen in palpable error of jurisdiction in granting a wholly unrealistic amount of compensation calculated by the number of years served. The number of years of service spent by each of the petitioners as tabulated by Mr.Sharma and Mr.Chandeep Singh appearing in some of the petitions for the workmen is as below :-.

<i>S.No.</i>	<i>Case No.</i>	<i>Particulars</i>	<i>Length of service</i>	<i>Amount (Rs)</i>
1.	5219 of 2014	Naib Singh v. P.O.I.T., Patiala and another	8 years, 7 months, 20 days	5,61,477
2.	5201 of 2014	Ramu v. P.O.I.T., Patiala and another	8 years, 7 months, 4 days	5,58,628
3.	5203 of 2014	Lajja Ram v. P.O.I.T., Patiala and another	4 years and 6 days	2,61,068
4.	5218 of 2014	Darshan Singh v. P.O.I.T., Patiala and another	9 years, 4 months and 10 days	6,08,444
5.	5221 of 2014	Ram Kumar v. P.O.I.T., Patiala and another	9 years and 3 months	6,01,248
6.	5234 of 2014	Raj Kumar v. P.O.I.T., Patiala and another	11 years and 5 months	7,42,080
7.	7702 of 2014	Gian Chand v. P.O.I.T., Patiala and another	9 years and 3 months	6,01,248
8.	7752 of 2014	Balwinder Singh v. P.O.I.T., Patiala and another	12 years and 11 months	8,39,576
9.	7877 of 2014	Dalbir Singh v. P.O.I.T., Patiala and another	9 years and 3 months	6,01,248
10.	7879 of 2014	Joginder Singh v. P.O.I.T., Patiala and another	12 years and 6 months	8,12,496
11.	9665 of 2014	Mohinder Singh v. P.O.I.T., Patiala and another	9 years	5,85,000
			Total	67,72,513

11. The award of the Labour Court is modified accordingly. The respondent-Corporation will pay compensation in lieu of reinstatement @ ₹ 65,000/- per year of service rendered by each of the petitioners and would

CWP No.5219 of 2014 & connected petitions.

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pay these amounts in two tranches one at the end of two months while the other at the end of five months from the date of supply of a certified copy of this order. The amounts be paid by pay order/bank draft directly to the workmen at the two stages i.e. on the 10th day of the month at the two stages ordered. The amounts already received by the petitioners in terms of the awards, if any, will be adjusted towards the amounts to be calculated in terms of this order. However, in case the amounts are not paid in terms of this order, then the amounts of compensation would earn interest @ 18% penal till realization to act as a safeguard against delay in payment of monies.

(RAJIV NARAIN RAINA)
JUDGE

December 11, 2015

Paritosh Kumar