

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 8752 of 2015
Date of Decision: May 6, 2015

Executive Engineer

..... Petitioner

Versus

Presiding Officer, Industrial Tribunal, Patiala and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Suvir Kumar, Advocate
for the petitioner.

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?

Amit Rawal, J (Oral)

The Management has approached this Court by challenging the order dated 9.7.2014 (Annexure P-1) whereby application of the respondent-workman filed under Section 33-C (2) of Industrial Disputes Act, 1947 (hereinafter called as 'the Act') claiming a sum of ₹14985/- i.e. suspension allowance @ 75% for the period w.e.f. 1.6.1998 to 24.8.1999 as per the last drawn wages i.e. ₹1350/- per month and further interest at the rate of 6% per annum on the premise that the workman did not turn up for duty and remained absent on his own will and did not join duty therefore order of the Labour Court is erroneous and perverse and thus, not entitled to suspension allowance. He further submitted that in the previous

round of litigation i.e. the application bearing No. 536/93 and 403/98 filed collectively, the tribunal has not considered the nature of dispute and rendered the decision based on the earlier decision as the nature of the dispute in the present case was not similar to the earlier cases. Therefore, the order is liable to be set aside. He further submitted that according to the decision which was referred under Reference No. 144 of 2000 whereby the Labour Court had awarded the workman/respondent No.2 reinstatement and back wages from the year 1999 onwards. The said award was stayed by this Court on 14.2.2013 and therefore the workman was not entitled to suspension allowance @ of 75% of the wages and the workman in the cross examination had admitted that he was working as Granthi and earning ₹4000/- and he was gainfully employed.

I have heard learned counsel for the petitioner and perused the paper book.

It is a matter of record that the workman-respondent No.2 had joined the petitioner-Management on 13.4.1987 as Road Roller Cleaner on work-charge basis and he was arrested on 30.12.1990 and released on bail on 14.5.1991. He submitted his joining report to the Management but did not report for duty. He filed applications bearing Nos. 536/93 and 403/98 *ibid* which have been decided in his favour and he was allowed suspension allowance upto 31.5.1998 and thereafter had been removed from service on 25.8.1999 without notice, charge sheet and enquiry, accordingly an application for recovery of suspension allowance for subsequent period i.e. 1.6.1998 to 24.8.1999 had been filed. The workman had

not claimed suspension allowance of termination order except for the aforementioned period and he has statutory right for claiming suspension allowance from the date he was not paid suspension allowance till the date of termination. The orders passed in the aforementioned applications except Ex.W-4 and Ex.W-5 have attained finality, rightly so the Labour Court has ordered that the workman is entitled to suspension allowance @ of 75% on the wages of ₹1350/- per month for the period w.e.f. 1.6.1998 to 24.8.1999. The factum of admission by the workman during the cross examination that he was earning ₹4,000/- and performing the job of Granthi would not dis-entitle him for the suspension allowance. The award of the Labour Court is thus fair, legal and justified.

No fault can be found with the award of the Labour Court. Accordingly the same is upheld. There is no merit in the writ petition. Accordingly the writ petition is dismissed.

(AMIT RAWAL)
JUDGE

May 6, 2015
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