

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

LPA No.1217 of 2015(O&M)

Date of decision:20.8.2015

Rajesh Kumar

....Appellant

VERSUS

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Ms. Garima Sharma, Advocate for the appellant.

HEMANT GUPTA, J.(Oral)

The present Letters Patent Appeal under Clause X of the Letters Patent is directed against an order passed by learned Single Bench of this Court on 07.05.2015 whereby the compensation in lieu of relief of reinstatement on account of violation of Section 25F of the Industrial Disputes Act, 1947 (for short 'the Act') was enhanced to Rs.3 lakh from Rs.30,000/- as awarded by learned Labour Court.

Learned counsel for the appellant contends that the appellant should have been reinstated in view of the proved violation of Section 25F of the Act. We do not find any merit in the argument raised.

A Full Bench of this Court in LPA No.754 of 2010 titled Municipal Council, Dina Nagar, Tehsil & Distt. Gurdaspur v. Presiding Officer, Labour Court, Gurdaspur and another, decided on 10.10.2014, while considering the claim of reinstatement held to the following effect:-

“(i) xxxx

xxxx

(iii) The right of reinstatement, however, is not an automatic right as such and while directing reinstatement, the Labour Court will have to take into consideration various aspects as to the nature of appointment, the availability of a post, the availability of work, whether the appointment was per se rules and the statutory provisions and the length of service and the delay in raising the industrial dispute before any award of reinstatement could follow in cases of persons appointed on a short term basis and as daily wagers and who had not worked for long period but solely on the strength of having completed 240 days, would not per se be entitled for reinstatement as such, even though the retrenchment was void.

(iv) The said retrenchment being void would, however, not entitle the workman as such to qualify or claim a right for regularization and neither by an order of reinstatement, the permanency could be granted to the said employee and only he would be held to be entitled in continuous service on the same status as he was when his services were terminated.”

In view of the judgment of the Full Bench in Municipal Council, Dina Nagar’s case (supra), we do not find that the discretion exercised by learned Single Bench to award compensation of Rs.3 lakh in any way warrants interference in the present Letters Patent Appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

AUGUST 20, 2015
‘D. Gulati’

(SHEKHER DHAWAN)
JUDGE