

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. LPA-2078-2014 [O&M]
Date of Decision : November 19th, 2015

Sunil Kumar
.... Appellant

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurdaspur
and others Respondents

2. LPA-2083-2014 [O&M]

Deepak Kumar

.... Appellant

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurdaspur
and others Respondents

3. LPA-2085-2014 [O&M]

Naresh Kumar

.... Appellant

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurdaspur
and others Respondents

4. LPA-2086-2014 [O&M]

Vivek Kumar

.... Appellant

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurdaspur
and others Respondents

5. LPA-2087-2014 [O&M]

Rajesh Sharma

.... Appellant

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurdaspur
and others

.... Respondents

6. LPA-2153-2014 [O&M]

Ranjit Kumar

.... Appellant

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurdaspur
and others

.... Respondents

7. LPA-166-2015 [O&M]

Joginder Pal

.... Appellant

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurdaspur
and others

.... Respondents

**CORAM : HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE SHEKHER DHAWAN**

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?

Present Mr. R.S.Ahluwalia, Advocate,
for the appellants [in all the appeals].

Mr. B.S.Chahal, DAG, Punjab.

SHEKHER DHAWAN, J.

CM-4368-LPA of 2014

For the reasons mentioned in the application, which is supported

by the affidavit delay of 18 days in refiling the present appeal is condoned and CM stands disposed.

CM-4369-LPA of 2014

For the reasons mentioned in the application, which is supported by the affidavit delay of 15 days in filing the present appeal is condoned and CM stands disposed.

Main Appeals

This order shall dispose of seven *intra-court* appeals, bearing LPA Nos. 2078, 2083, 2085, 2086, 2087, 2153 of 2014 and 166 of 2015, filed by the petitioners, under Clause X of the Letters Patent against the common judgment dated 1.7.2014 passed by the learned Single Judge, whereby separate writ petitions filed by petitioners were disposed of involving common questions of law and facts and the award under challenge, dated 25.8.2011, is also common. The facts were taken from CWP No. 22369 of 2011 – **Natha Singh Vs. Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurdaspur & others**. Petitioners had filed writ petitions challenging termination of their services on the ground that there was no break in service and they were retrenched without making payment of any compensation or without issuance of any notice.

2. Learned Single Judge after considering the entire matter passed order dated 1.7.2014 and view was taken that the petitioners are not entitled for reinstatement, but they were entitled for compensation @ Rs.20,000/- per each completed year of service as per table attached as 'Schedule A' with the order. Petitioners were also held entitled for costs of litigation to the tune of Rs.20,000/- each and the payment was to be made within two months from the date of receipt of a certified copy of the order

failing which, it was ordered that the same will carry interest @ 9% per annum from the date of the order. Petitioners are in appeals against the said order.

3. Learned counsel for the appellants mainly submitted that learned Single Judge though, while forming the opinion that termination of services of the appellants was not justified, passed the order for payment of compensation only whereas the appellants are entitled for reinstatement in service.

4. We have considered the matter in its entirety. Learned Single Judge while dealing with the matter and after appreciating the facts of CWP No. 22369 of 2011, decided that in this case, workman was engaged on 1.9.1993 for a period of one year and as per Ex.R-2, he submitted fresh application whereby he was again appointed for one year from 16.9.1995. The workmen continued by submitting applications at the end of expiring period and were appointed afresh and thereafter, a decision was taken that the workmen were not to be considered for regularization and their services were terminated. Learned Single Judge rightly formed the opinion that as the workmen were working on contract basis and they had already completed 240 days in the preceding year and as such, they were entitled for the benefit of the protective umbrella of Section 25-F of the Industrial Disputes Act, 1947, before dispensing with the services of the workmen, which was not done. The appellants in these cases also had already worked for a period ranging from 4-1/2 years to 8-1/2 years and the contract agreements were executed by them. Learned Single Judge placed reliance upon the Apex Court judgment in Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh

2013 [5] SCC 136, wherein it has been held that keeping in view the nature of the job, the period of service and mode of employment, reinstatement is not to be directed as a matter of course.

5. As per view taken by a Division Bench of this Court in **State of Haryana through Executive Engineer, PWD, Public Health Division No. 2, Sonipat Vs. Ishwar Singh & another** **2009[1] RSJ 24**, compensation was ordered in favour of the petitioners-appellants @ Rs.20,000/- for each completed year and learned Single Judge also assessed compensation in these cases @ Rs.20,000/- for each completed year for the workmen.

6. We have considered this matter on the point of amount of compensation to be awarded in such cases where appellants have already worked for a period ranging from 4-1/2 years to 8-1/2 years and are of the view that the amount of compensation should be enhanced in these cases and are further of the view that amount of Rs.20,000/- should be enhanced to Rs.30,000/- for each completed year as per table attached as 'Schedule A' with the impugned judgment. So ordered. The amount, as indicated, be paid to the appellants within a period of 2 months from the date of receipt of copy of this order, failing which the same will carry interest @ 9% per annum from the date of this order.

7. The appeals are disposed of in the above terms.

(SATISH KUMAR MITTAL)
JUDGE

(SHEKHER DHAWAN)
JUDGE

November 19th, 2015
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