

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

**LPA No.625 of 2015 (O&M)**

Date of Decision: 09.07.2015

The Chief Post Master General and others

..... Appellants

Versus

Smt. Gurdev Kaur and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE S.S. SARON  
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Namit Kumar, Advocate  
for the appellant.

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S.S. SARON, J.

**CM No.1277-LPA-2015**

For the reasons recorded in the CM, delay of 30  
days in filing the appeal is condoned.

CM stands disposed of.

**LPA No.625 of 2015**

This appeal has been filed by the appellants  
against the judgment dated 23.12.2014 passed by the  
learned Single Judge in CWP No.14396 of 2011.

The respondent No.1-workwoman was appointed

as a water woman at Head Post Office, Civil Lines Area, Bathinda in the year 1993. The work of the water workwoman was of a permanent nature. However, her services were terminated w.e.f. 15.10.2002. According to the respondent No.1-workwoman, the termination of her services was in violation of the provisions of the Industrial Disputes Act, 1947 ('Act' - for short). She was not served any notice and nor paid any notice pay or retrenchment compensation; besides, after terminating her services, a new person was appointed. She claimed her reinstatement in service with continuity of service and back wages.

The Central Government vide notification dated 02.06.2004 in exercise of its powers under Section 10 (1) and Section 2(A) of the Act referred the dispute of respondent No.1-workwoman to respondent no.2-Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh ('Tribunal' – for short) for adjudication. The reference order was to the effect as to whether the action of the management of the Post Master, Head Post Office, Civil Lines Area, Bathinda in terminating the services of respondent No.1-workwoman w.e.f. 15.10.2002 without any notice and without any payment of retrenchment compensation was illegal and unjustified? If so to what relief the concerned workwoman is entitled to?

The appellants-Management contested the claim of respondent No.1-workwoman. According to the appellants, as per the official records, no appointment letter was ever issued to her, besides, no wages or salary had ever been drawn against her name. The salary from the contingency was paid to part time workers like water carriers, which was never drawn against the name of the worker but was drawn from contingency against water carrier by designation. In the absence of any documents on record, it was submitted that contentions of the respondent No.1-workwoman about her employment as a water woman could not be admitted. Her contention regarding termination from services w.e.f. 15.10.2002 was also denied. The services of contingency paid part time worker could validly be terminated as and when there was no further requirement.

The learned Tribunal considered the case of the respondent No.1-workwoman as to whether she was in the employment of the appellants-Management, if so, whether her services were terminated in violation of Section 25-F of the Act? Besides, whether after termination of the services of the respondent No.1-workwoman, a new person was employed in violation of Section 25-H of the Act?

After consideration of the evidence and material

on record, the learned Tribunal held that the services of the respondent No.1-workwoman was terminated in violation of Section 25-F of the Act. However, it was held that the respondent No.1-workwoman had failed to prove the violation of Section 25-H of the Act. Accordingly, respondent No.1-workwoman was held entitled to the relief which she had claimed and the appellants-Management were directed to reinstate her in service and treat her in service for the period of her termination from service and also held that she would be entitled for back wages for the said period.

The appellants-Management aggrieved against the said award of the learned Tribunal filed CWP No.14396 of 2011. The learned Single Judge in terms of his impugned order held that the learned Tribunal should not have granted reinstatement in service in this case as it was dealing with an appointment which was part time and *de hors* the rules in the sense that it was occupied by a person who was taken as water woman but not against a sanctioned and a budgeted post. This was a local office arrangement paid out of contingency funds set up to meet such measures as were required in the office administration and as local conditions demanded. There was nothing wrong in such an arrangement but it had not been urged that after

termination of the respondent No.1-workwoman, the need for a water woman continued or that she was replaced by some other person.

After considering the case law on the point, reinstatement in service was denied to respondent No.1-workwoman and the question regarding payment of compensation was considered. The respondent No.1-workwoman was awarded ₹ 5 Lacs as compensation.

Aggrieved against the amount of compensation awarded to respondent No.1-workwoman, the appellants-Management have filed the present appeal.

Learned counsel appearing for the appellants submits that the compensation awarded is on the higher side and the same is liable to be reduced.

In support of his contention, learned counsel for the appellants-Management has made a reference to the case of '**B.S.N.L. v. Bhurumal**' (2014) 7 SCC 177, wherein compensation of ₹ 3 Lacs was awarded, besides, reference has been made to the case of '**Telecom District Manager and others v. Keshab Deb**' 2008 (4) SCT 33 (S.C.), wherein compensation of ₹ 1,50,000/- was awarded to the workman who was a driver. Besides, reference has been made to the case of '**Madhya Pradesh Administration v. Tribhuban**' 2007 (2) S.C.T. 738 (S.C.), wherein

compensation of ₹ 75,000/- was awarded. It is submitted that compensation awarded to the respondent No.1-workwoman is on the higher side.

We have given our thoughtful consideration to the matter.

The learned Single Judge in the case has duly considered the case law and also the hand written calculation sheet prepared by the learned counsel appearing for the respondent No.1-workwoman and taken on record as Mark 'A'. It was noticed that the amount shown in the calculation sheet payable to respondent No.1-workwoman i.e. ₹ 10 Lacs, was a little excessive and perhaps oppressive on the rights of the appellants-Management and may neither be wholly justified as that may amount to a wind fall and not reasonable compensation.

The total period of service spent by the respondent No.1-workwoman was about nine years. It was noticed that the golden means between under compensation and over compensation was required to be struck in a rough and ready balance. After noticing, the case law including that of **B.S.N.L. v. Bhurumal** (supra), compensation of ₹ 5 Lacs was awarded to respondent No.1-workwoman. It was noticed that the amount of compensation i.e. ₹ 50,000/- deserves to be awarded for every year of service which was

rounded off at ₹ 5 Lacs, in the present case (9 X ₹ 50,000/- = ₹ 4,50,000/- + r/o ₹ 50,000/- = Total @ ₹ 5 Lacs) as just and reasonable compensation for the violation of the mandatory provisions of the Act, which could result in reinstatement, loss of past and future livelihood till 2017 i.e. the age of superannuation from service of respondent No.1-workwoman; besides, for the appellants-Management to have taken work at a cheap cost from the respondent No.1-workwoman without having to pay full salary which they would have had to pay for the price which Articles 14 and 16 of the Constitution may entail for a regular arrangement. This was held as a fair and reasonable compensation.

We have perused hand written calculation sheet taken on record as Mark 'A' by the learned Single Judge and the compensation as worked out is ₹ 12, 49, 151/-. The compensation that has been awarded to respondent No.1-workwoman is ₹ 5 Lacs. This may look somewhat excessive, however, it has also been noticed by the learned Single Judge that the respondent No.1-workwoman was made to work on part time basis as a water woman and she was only being paid on daily wages basis, whereas she was liable to be paid full back wages. Besides, the termination of her services had been held to be wrong. In **B.S.N.L. v.**

**Bhurumal** (supra), a sum of ₹ 3 lacs was awarded. In the case of **'BSNL v. Man Singh'**, 2012 (1) SCT 641, the Hon'ble Supreme Court awarded compensation of ₹ 2 Lacs to each of the workmen. The workmen in the said case had merely worked for 240 days. They were engaged as 'daily wages' and had been terminated from service without giving notice or retrenchment compensation. Relief of reinstatement, it was held, would not be justified and instead, monetary compensation would meet the ends of justice.

In the case of **'Telecom District Manager and others v. Keshab Deb** (supra), the workman was a driver and applied for recruitment in the Directorate of Telecommunications. He was informed that recruitments of Drivers etc. was for the present banned. He was, however, appointed as a casual labourer on daily wages, which was said to be a need based one. He was arrested by the police under Section 34 (6) of the Police Act. In connection therewith he was sentenced to undergo simple imprisonment for 8 days, besides, pay a fine of ₹ 30/-. Then, he was not allowed to join back his duties. The workman filed a writ petition before the Gauhati High Court *inter alia* contending that his services were terminated without meeting the statutory requirements of Section 25-F of the Act. He also claimed regularization of his services.

The writ petition was transferred to the Central Administrative Tribunal. According to the appellants, he had committed a misconduct. The provisions of Section 25-F of the Act having not been complied with, he was held entitled to compensation of ₹ 1,50,000/-. It was held that interest of justice shall be sub-served if the respondent-workman was directed to be paid a compensation of ₹ 1,50,000/-. The workman in the said case as already noticed was appointed as a casual labourer on daily wages. It was said to be as a need based one. He was said to have worked in that capacity from 11.03.1989. It was held that even if the provisions of Section 25-F of the Act had not been complied with, respondent-workman was entitled to be paid a just compensation. In the circumstances, compensation of ₹ 1,50,000/- was awarded, which was ordered to be paid within four weeks failing which it would carry interest @ 9% per annum.

In the case of '**Madhya Pradesh Administration v. Tribhuban**' (supra) a compensation of ₹ 75,000/- was awarded to the respondent-workman. The said workman had worked for the period from 13.12.1991 to 01.03.1994. Thereafter, his services were terminated. Therefore, the said workman had worked for a period of about two years and three months.

In the present case, the respondent No.1-workwoman has worked about nine years. Therefore, keeping in view the facts and circumstances into consideration, we are of the view that the compensation of ₹ 5 Lacs awarded by the learned Single Judge is just and proper and the same is not liable to be reduced or interfered with.

Consequently, we find no merit in the appeal and the same is dismissed.

The appellants-Management shall implement the judgment passed by the learned Single Judge within three months from the receipt of copy of this order failing which it shall entail interest as awarded by the learned Single Judge.

**( S.S. SARON )  
JUDGE**

**09.07.2015**  
'yogesh'

**( RAMENDRA JAIN )  
JUDGE**