

LPA No.857 of 2015 (O&M) & anr.

-1-

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

LPA No.857 of 2015 (O&M)

Guru Jambheshwar University, Hisar

...Appellant

Versus

Shival Kumar and others

....Respondents

LPA No.858 of 2015 (O&M)

Guru Jambheshwar University, Hisar

...Appellant

Versus

Birbal and others

....Respondents

Date of Decision: 29.09.2015

**CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL
HON'BLE MR.JUSTICE MAHAVIR S. CHAUHAN**

Present: Mr. Amrit Paul Advocate,
for the appellant.

Mr. A.S. Virk, Advocate,
for the cross objector/respondent No.2.

Mr. B.S. Mittal, Advocate,
for the respondent/workman.

Mr. Ravi Sodhi, Advocate,
for the respondent/workman.

Mr. Salinder Singh, Advocate,
for respondent No.4.

..

SATISH KUMAR MITTAL, J.

This order shall dispose of two Letters Patent Appeals bearing

Nos.857 and 858 of 2015 filed by Guru Jambheshwar University, Hisar as well as the cross-objections (Cross Objection No.2-LPA of 2015 in LPA No.857 of 2015 and Cross Objection No.3-LPA of 2015 in LPA No.858 of 2015) filed by the respondent-Kurukshetra University, Kurukshetra in the aforesaid two appeals.

These appeals are barred by limitation, and along with the appeals, the appellant has filed applications (CM Nos.1786-LPA of 2015 and 1789-LPA of 2015) for condonation of delay of 118 days and 107 days, respectively, in filing the appeals, yet without taking the said delay into consideration, we have heard the learned counsel for the parties on merits and gone through the award of the Labour Court as well as the impugned order passed by the learned Single Judge.

These appeals are arising from a common order dated 18.12.2014 passed by the learned Single Judge whereby two writ petitions (C.W.P. Nos.23696 of 2011 and 23721 of 2011) filed by the workmen-Birbal and Shival Kumar, respectively, challenging the award dated 15.02.2011 passed by the Industrial Tribunal-cum-Labour Court, Hisar qua grant of inadequate compensation to the tune of ₹ 25,000/-, were partly allowed and workman-Birbal was held entitled to ₹ 4,50,000/- as compensation and workman-Shival Kumar was held entitled to ₹ 4,00,000/- as compensation in lieu of reinstatement. Both Kurukshetra University, Kurukshetra and Guru Jambheshwar University, Hisar (appellant herein) were held jointly and severally liable to pay compensation. It is pertinent to mention here that the Labour Court fixed the liability to pay the

compensation only on the Kurukshetra University, Kurukshetra.

In the appeals, the plea of Guru Jambheshwar University is that both the workmen were initially engaged by the Kurukshetra University and subsequently their services were also terminated by the Kurukshetra University, therefore, the Labour Court had rightly fixed the liability to pay the compensation in lieu of reinstatement on the Kurukshetra University and the learned Single Judge has erred in law while directing the appellant-University to pay the part of the compensation proportionately to the workmen only on the ground that during the interregnum period the Regional Centre, where the workmen were employed, was under the control of the Guru Jambheshwar University, Hisar

In the cross-objections, Kurukshetra University raised the objections with regard to quantum of compensation awarded by the learned Single Judge. It is the contention of the Kurukshetra University that the Labour Court had rightly awarded compensation to the tune of ₹ 25,000/- to both the workmen, which has been enhanced by the learned Single Judge without any justification.

During the course of arguments, it could not be disputed by the learned counsel for the Kurukshetra University that when the services of both the workmen were terminated by the Kurukshetra University, the mandatory requirement of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act') was not followed. This finding of fact was also affirmed by the Labour Court as well as by the learned Single Judge. In view of the said finding of fact, the Labour Court

held the termination of services of both the workmen as illegal and contrary to the provisions of Section 25-F of the Act. However, considering the consequences of the said finding and keeping in view the facts and circumstances of the case, the Labour Court awarded suitable compensation of ₹ 25,000/- each to both the workmen in lieu of reinstatement.

The learned Single Judge while taking into consideration the cumulative services rendered by both the workmen-Birbal and Shival Kumar, which was four years and seven months and four years and one month, respectively, and the long period of litigation as also the facts and circumstances of the case, came to the conclusion that the present case is a fit case where in lieu of reinstatement, suitable compensation should be awarded and fixed ₹ 4,50,000/- as compensation to workman-Birbal and ₹ 4,00,000/- to workman-Shival Kumar in lieu of reinstatement. However, both the appellant-University and the respondent-Kurukshetra University, Kurukshetra were jointly and severally held liable to pay the aforesaid amount of compensation to the workmen which has been assessed as ₹ 1,00,000/- per year.

The workmen being satisfied with the impugned order passed by the learned Single Judge, did not challenge the same by filing the appeal. However, the appeals have been preferred by Guru Jambheshwar University, Hisar in which the cross-objections have been filed by Kurukshetra University.

After hearing the learned counsel for the parties, we find force in the contention of the learned counsel for the appellant- Guru

Jambheshwar University with regard to partly fastening the liability to pay the compensation on it. We have gone through the impugned order in this regard. Merely because at one point of time the Regional Centre at Village Phulkan in district Sirsa, where both the respondents-workmen were employed, was under the control of Guru Jambheshwar University, the appellant-University cannot be held liable to pay the compensation when undisputedly the services of the workmen were illegally terminated by the Kurukshetra University. Further, it is also undisputed fact that initially both the workmen were appointed as Chowkidars in the year 1996 by the Post Graduate Regional Centre Phulkan (Sirsa), under control of Kurukshetra University, but at one stage that Centre went under the control of the Guru Jambheshwar University, but after some time again came back under the control of Kurukshetra University, and at that time the services of the workmen were illegally terminated. Thus, in our opinion, the learned Single Judge was not justified to modify the Award of the Labour Court where the entire liability to pay the compensation has been fastened on the Kurukshetra University. Thus, we deem it proper to set aside the part of the order of the learned Single Judge and fasten the entire liability to pay the amount of compensation to the workmen in lieu of reinstatement on the Kurukshetra University (respondent No.2 herein).

Faced with this situation, learned counsel for respondent No.2-Kurukshetra University press its cross-objections to the quantum of compensation only.

After hearing the arguments of the learned counsel for the respective parties, we are of the view that the compensation quantified by

the learned Single Judge is slightly on the higher side and thus we, accordingly, reduce the same to ₹ 3,25,000/- in case of workman-Birbal and ₹ 3,00,000/- in case of workman-Shival Kumar. To that extent the judgment of the learned Single Judge is modified.

Both the appeals and cross-objections are disposed of in the aforesaid terms.

(SATISH KUMAR MITTAL)
JUDGE

September 29, 2015
vkg

(MAHAVIR S.CHAUHAN)
JUDGE