

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CWP No. 980 of 2003 (O&M)
Date of decision: 20.12.2016

Pardeep Kumar

...Petitioner

V/s.

Presiding Officer, Labour Court, Ambala & Ors

...Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. R.P.S. Ahluwalia, Advocate for the petitioner.

Mr. Keshav Gupta, Asst. A.G., Haryana.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, the petitioner has questioned the award of labour Court dated 26.11.2001.

The petitioner was appointed as a Helper on 04.03.1980 on adhoc basis. His services were terminated on 04.10.1986. During the intervening period, he remained absent on many occasions. The petitioner raised an industrial dispute by completing formalities. Thus, the labour Court proceeded to decide the reference. The labour Court framed the issue whether the termination of service of the workman is valid and justified or not. The labour Court even though held that petitioner's termination from service is arbitrary and illegal. However proceeded to grant relief and only Rs.20,000/- as retrenchment compensation in lieu of reinstatement had been awarded. Petitioner was aggrieved by the award dated 26.11.2001 and hence this petition.

Learned counsel for the petitioner submitted that when the labour Court has held that termination is illegal, the petitioner is entitled for reinstatement with continuity of service and back-wages. In support of the contention, he relied on decision of the Apex Court in **M.C.D. V/s. Parveen**

Kumar Jain (SC) reported in 1999 volume II SCT page 289 wherein the Apex Court has held that once the labour Court has held that there is illegal termination, in such circumstances, workman is entitled for reinstatement with continuity of service.

On the other hand, learned counsel for the respondents submitted that having regard to dates and events, petitioner was appointed as a Helper on adhoc basis and his services were stood terminated in the month of September 1986. Adhoc employee has no right to continue for the reasons that his appointment is not in accordance with the advertisement and other formalities for the purpose of selection and appointment to the post of Helper. Therefore, petitioner has no legal right to claim for reinstatement and continuity of service with back-wages. Therefore rightly, the labour Court has held that the petitioner is entitled to retrenchment compensation of Rs. 20,000/- in lieu of reinstatement.

Heard the learned counsel for the parties.

Short question for consideration is whether the petitioner is entitled to reinstatement with continuity of service and back wages or not. Having regard to the fact that the petitioner was appointed as a Helper on 04.03.1980 and his services were terminated on 04.10.1986 and also the fact that the petitioner remained absent during the intervening period on many occasions. Further the petitioner's appointment is only on adhoc basis and it is not in terms of the advertisement and selection procedure. Therefore rightly, the labour Court has held that the petitioner is entitled to sum of Rs.20,000/- as a retrenchment compensation in lieu of reinstatement. Noted the Apex Court decision passed in **M.C.D V/s. Parveen Kumar Jain** (supra) directed for reinstatement if the order of termination is illegal. At the same

time, in the case of *Man Singh v/s. Bharat Sanchar Nigam Ltd.* reported in 2012 (1) S.C.T. 641, it is held that instead of reinstatement, amount of compensation is sufficient. However, sum of Rs. 20,000/- as compensation awarded by the labour Court is a very meager amount and it is modified from Rs.20,000/- to that of Rs.3,00,000/-. The respondents are directed to pay compensation of Rs.3,00,000/- within a period of four months from today failing which the petitioner is entitled for interest @ 6% per annum from today.

Disposed of.

December 20, 2016

**(P.B.BAJANTHRI)
JUDGE**

Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No