

CWP No. 9342 of 1994

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

**CWP No. 9342 of 1994
Date of Decision : 14.07.2016**

M/s Bhagat Industrial Corporation Ltd.

...Petitioner

Versus

Baldev Raj (deceased) through L.r. and another

...Respondents

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

- 1) *Whether Reporters of the 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. Sukhdip Singh Brar, Advocate for the petitioner.

None for the respondents.

P.B. Bajanthri, J.(Oral)

In the instant writ petition, the petitioners have questioned the validity of Labour Court award dated 03.02.1994.

The respondent No. 1(since deceased)-employee is stated to have been appointed in the petitioners' industry in the year 1979. In the year 1983 he remained absent for 22 and half days for which he was subjected to disciplinary proceedings by framing charge and holding enquiry. Even though, respondent No. 1 had admitted his absence and reasons have been stated due to domestic problems in the family. Pursuant to the Inquiry

Officer's report, services of the respondent No. 1-Baldev Raj were terminated on 08.09.1983. Dispute was arisen before the Labour Court. On 03.02.1994 Labour Court passed the following order :-

“10. Consequently, in view of my decision on the above issue, I hold that the workman is entitled to reinstatement with continuity of service. However, as regards the back wages are concerned, there is sufficient evidence on the record that the workman remained gainfully employed from 8th June, 1985 to 25th August, 1991 at the rate of Rs. 15 per day from 8th June, 1985 to 31st December, 1990 and at the rate of Rs. 30 per day from 1st January, 1991 to 25th August, 1991 and that he remained unemployed from 11th August, 1983 to 8th June, 1985 and from 25th August, 1991 upto date. I, therefore, order that he be given backwages for the period for which remained unemployed and the wages from the period from 8th June, 1985 to 25th August, 1991 cannot be awarded because he remained gainfully employed. The workman is directed to report for duty within 30 days of the publication of the award. The reference is answered as such. No order as to costs.”

In the meanwhile, the respondent No. 1 (since deceased) is stated to have been appointed as a Special Police Officer in State of Punjab. While working as a Special Police Officer, his services were terminated, which was a subject matter before this Court as well as in a writ petition and in contempt of Court proceeding in the year 1990. During pendency of this petition, respondent No. 1 is stated to have died in the month of October, 2000 and his widow has been brought on record as a legal representative.

Learned counsel for the petitioner vehemently contended that the respondent-employee was a habitual absentee. He was subjected to

disciplinary proceedings and thereafter his services had been terminated which is in accordance with the certified standing order. Therefore, termination order could not have been interfered by the Labour Court. The Labour Court erred in holding that there was no proper enquiry. That apart, it was recorded that respondent was appointed as a Special Police Officer, thus, he was gainfully employed. Therefore, directions of the Labour Court to pay back wages from 25.08.1991 onwards is contrary to the facts. Hence, Labour Court award is liable to be set-aside.

None appears for the respondents. Even on 18.05.2016, none had appeared for the respondents nor legal representative.

Heard learned counsel for the petitioners.

The petitioners have charge-sheeted the respondent No. 1 on the allegation of unauthorised absent from 22.4.1983 which has been extracted in the charge-sheet with reference to date and number of days is taken into consideration absence is for 22 and half days. The respondent-employee fairly admitted the fact that he remained absent due to domestic problem. Despite the admitted absent, the petitioners terminated the services of the respondent No. 1. Punishment of termination is too harsh for remaining unauthorised absent for 22 and half days. Moreover, Labour Court has held that there was no proper inquiry. The Labour Court could not have ordered for back wages from 25.08.1991 up to date for the reasons that respondent gainfully employed in the Punjab State Government. He had worked against the post of Special Police Officer for sometime and certain service litigations were pending before this Court in respect of the

post of Special Police Officer. It was further noticed that on 12.10.2000 respondent No. 1 died. Consequently legal representative had been brought on record.

In view of these facts and circumstances and impracticable to implement award due to new development in the matter, it is appropriate to modify the award of Labour Court instead of re-instatement and back wages are concerned. It is sufficient if compensation of ₹2 lac is paid to the legal representative. The legal representative is entitled to compensation of ₹2 lacs. The same shall be paid by the petitioners within a period of three months from today. If compensation amount is not paid within the stipulated period, the legal representative is entitled for interest @ 9% per annum after completion of three months from today.

Petition stands disposed of in above terms.

July 14, 2016.
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(P.B. BAJANTHRI)
JUDGE