

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11191 of 2005 (O&M)

Date of Decision:- 4.5.2016.

Sukhdev

.....Petitioner

Versus

Presiding Officer, Labour Court, Gurgaon and another

.....Respondents

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

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: Ms. Abha Rathore, Advocate for the petitioner.

Mr. R.K. Makkad, DAG, Haryana.

P.B. BAJANTHRI, J.

1.) In the instant writ petition, the petitioner has questioned the award of the Labour Court dated 3.11.2004.

2.) The petitioner is stated to have appointed as a Mali-cum-Chowkidar on 18.5.1995. His services were terminated on 21.8.1997 without assigning any reason. Feeling aggrieved by the order of termination, he has approached the Labour Court. The Labour Court disposed of the petition on 3.11.2004 and awarded only compensation of ₹ 1,20,000/-.

3.) The petitioner questioned the award dated 3.11.2004 insofar as not re-instating the petitioner and back wages. The

learned counsel for the petitioner relied on three cases, namely,

<i>S. No.</i>	<i>Name</i>	<i>Date of Award</i>	<i>Relief granted by Labour Court</i>	<i>Period of service</i>
1	Petitioner-Sukhdev	03/11/04	Rs.1,20,000/-	18.5.1995-21.8.1997
2	Subhash	06/12/03	Reinstatement with 50 % back wages	1.7.1995 to 18.8.1997
3	Sajjan Singh	12/08/04	Reinstatement with 50% back wages	01.11.1995 to 31.3.1997
4	Sahi Ram	12/08/05	Reinstatement with 50% back wages	01.07.1995 to 28.08.1997

pointing out that Subhash, Sajjan Singh and Sahi Ram who were appointed subsequent to the petitioner's appointment whose services were terminated on 18.8.1997, 31.3.1997 and 28.8.1997. These persons also approached Labour Court and the Labour Court awarded that they should be reinstated with 50 % back wages. In one of the case, the respondents preferred writ petition in which the award was upheld by Division Bench of this Court on 1.7.2004. Therefore, it is submitted that the petitioner is also entitled for reinstatement with 50% back wages on par with others and the petitioner is in better footing than three others if the date of appointment is taken.

4.) The learned State counsel submitted that instead of reinstatement, the Labour Court rightly awarded compensation of ₹ 1,20,000/-. There is no error in awarding compensation by the Labour Court. Therefore, there is no infirmity in the award. Hence, the writ petition is to be dismissed. The learned counsel for the State

did not dispute the dates and events in respect of Subhash, Sajjan Singh and Sahi Ram who were similarly situated to that of the petitioner. In fact, the petitioner was appointed on 18.5.1995 prior to all the three persons, namely, Subhash, Sajjan Singh and Sahi Ram even their services were terminated. Whereas the Labour Court directed for reinstatement with 50 % back wages. The respondents preferred writ petition before this Court and suffered an order. Moreover, in all the above three cases, the orders have been implemented while reinstating them and also paying 50% back wages. The petitioner's case is identical to that of the above three persons. Therefore, the award dated 3.11.2004 is modified to the extent that the petitioner is entitled to reinstatement with 50% back wages. Insofar as compensation awarded by Labour Court is concerned, the same set aside. The respondents are directed to reinstate the petitioner along with payment of 50 % back wages within a period of three months. If the back wages are not paid within three months, the petitioner is entitled to interest @ 12 % per annum.

5.) The petitioner is also entitled for continuity of service and each and every service benefits on par with Subhash, Sajjan Singh and Sahi Ram.

6.) Accordingly, the petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

May 4, 2016.

sandeep sethi