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

CWP-15244-2013
Date of decision: 02.02.2016

Bijender Kumar

..... Petitioner

VERSUS

The Presiding Officer and another

..... Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Rahul Sharma, Advocate for the petitioner.

Mr. P.K. Mutneja, Advocate
for respondent No.2.

SABINA, J.

Petitioner has filed this petition under Article 226 of Constitution of India seeking a writ in the nature of certiorari for quashing the award dated 23.04.2013 (Annexure P-1).

Petitioner had raised an industrial dispute by serving a demand notice challenging his termination. The dispute raised by the petitioner was referred for adjudication to the Industrial Tribunal-cum-Labour Court, Gurgaon by the appropriate Government.

The case of the petitioner, in brief, was that he was working as a machine operator with the respondent-Management w.e.f. 01.02.1989. Vide settlement

dated 31.12.1997, it was agreed between the parties that requirement of manpower would be assessed and extra workman would be adjusted in unit No.1. Petitioner alongwith other workman was transferred to Parwanoo (H.P.) unit. Petitioner filed a civil suit for injunction and the same was later got dismissed as withdrawn on 12.06.1999. Writ petition filed by the petitioner challenging his transfer order was dismissed by this Court. Review petition filed by the petitioner against the said order was disposed of and petitioner was relegated to alternate remedy by raising an industrial dispute. Further, the case of the petitioner was that his services were terminated without complying with the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 (for shot Act).

Respondent-Management in its written statement averred that the petitioner has been transferred to Parwanoo unit vide letter dated 22.05.1999, due to exigency of work. However, petitioner failed to join at the place of transfer. Thus, petitioner had himself intentionally abstained from resuming duty at Parwanoo unit.

On the pleadings of the parties the following issues were framed by the Labour Court:-

“(i) Whether the services of the workman have been terminated by the mgt.? OPW

- (ii) If issue No.1 is proved whether terminated of services of workman is justified and in order? If not, to what relief, he is entitled to? OPM
- (iii) Whether the reference is bad in law in view of preliminary objection No.1 taken in the written statement? OPM
- (iv) Relief ?”

Labour Court vide its award dated 23.04.2013 held that the services of the petitioner had been illegally terminated without complying with the provisions of Section 25-F of the Act. Labour Court held that the petitioner was working as a machine operator with the respondent-Management w.e.f. 01.02.1989 and had continuously worked upto 16.07.1999 and had thus rendered more than ten years of service. Petitioner was fighting his case before the Labour Court since the year 2002. Keeping in view the facts and circumstances of the case, the Labour Court held that the petitioner was entitled to receive ₹ 6,00,000/- by way of compensation in lieu of reinstatement.

Learned counsel for the petitioner has submitted that the petitioner was entitled for reinstatement instead of compensation and further that amount of compensation awarded by the Labour Court was on a lower side.

Learned counsel for the respondent-Management has submitted that it was not possible to reinstate the petitioner as

the unit at Parwanoo had closed down in the year 2009 and the unit at Sohna had also closed down in the year 2012.

Keeping in view the submissions made by the learned counsel for respondent-Management, the petitioner cannot be ordered to be reinstated in service as the units of the respondent-Management have closed. Keeping in view the fact that the petitioner had rendered ten years of service with the respondent-Management, the Labour Court had rightly come to the conclusion that the petitioner was entitled to ₹ 6,00,000/- by way of compensation. The said amount of compensation cannot be said to be on a lower side.

Keeping in view the facts and circumstances of the present case, no ground for interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India is made out.

Dismissed.

February 02, 2016
Ramandeep Singh

**(SABINA)
JUDGE**