

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

217

**CWP No. 16079 of 2013(O&M)
Date of decision:21.11.2016**

Ram Singh

.... Petitioner

Versus

Presiding Officer, Industrial Tribunal cum Labour court, Rohtak and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Sandeep Singal, Advocate for the petitioner.

Mr. Anil Mehta, DAG, Haryana.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has assailed the award passed by the Labour Court dated 03.10.2012 vide Annexure P8..

2. The petitioner was initially appointed as a Helper Mechanic on daily wage basis on 01.12.1982. Thereafter, his services were dispensed on 31.10.1983. Once again he was re-appointed on 01.04.1984 and his services were terminated on 17.09.1985. He has suffered an order before the Labour Court. At that juncture, the petitioner came to know that some of the persons were appointed on *ad hoc* basis to the post of Helper Mechanic while ignoring the name of the petitioner. Thus, he approached this court on two occasions vide CWP No. 13282 of 1993 and CWP No. 376 of 2003 in which also he suffered order at the hands of this court. While disposing of

CWP No. 376 of 2003, the petitioner was given liberty to approach appropriate forum raising industrial dispute. Accordingly, he has raised industrial dispute. Thus reference No. 144 of 2004 was decided by the Labour Court on 03.10.2012 while declining the relief sought by the petitioner. Thus, the present petition has been filed.

3. Short question for consideration in the present petition is whether subsequent to termination of the petitioner on 17.09.1985 whether any person was appointed on *ad hoc* basis to the post of Helper Mechanic on daily wages or not. Learned counsel for the petitioner submitted that the Labour Court has not appreciated that issue viz., violation of Section 25H of the Industrial Disputes Act, 1947. Hence, the present petition.

4. Learned counsel for the petitioner further submitted that the respondents have appointed on *ad hoc* basis which is evident from the latest affidavit submitted on 29.07.2016 in particularly paras 2 and 3 in which they have stated that 44 candidates were appointed as daily wagers for the period from 1.8.1988 to 31.8.1988 and some of the candidates are still working with the depot and candidates were got transferred to other depots and some of them stands retired from service. In view of the said submission, he is entitled for compensation.

5. On the other hand, learned counsel for the respondents resisted the claim of the petitioner contending that initially the petitioner was appointed as a Labour Mechanic on daily wage basis. Subsequently, he was appointed as a daily wager or helper and persons who were working/retired are all Helper Mechanic. Therefore, the petitioner cannot say there is violation of Section 25H of the Act. The petitioner has not made out a case so as to interfere with the Labour Court.

Heard learned counsel for the parties.

7. Admittedly, the petitioner was appointed on two occasions and thereafter, his services were terminated. He was appointed as Helper Mechanic on daily wage basis. Thereafter, for the 2nd time he was appointed as a daily wage water carrier. In the year 1988, daily wage helper were appointed as is evident from the affidavit dated 22.07.2016. In the affidavit the reasons have not stated that persons who are appointed in the year 1988 were Helper Mechanic or not. It only discloses as daily wagger helper. Even Water Carrier Daily Wager post is also a helper post to the respondents. Therefore, much distinction cannot be made in respect of daily wage Helper Mechanic or daily wage Helper. The petitioner unsuccessfully fought the litigation from 1985 till date. Since the petitioner services were terminated way back on 17.09.1985 he is not entitled for reinstatement even though, Section 25H is attracted. At this distance of time, at the best he is entitled to only compensation in view of Supreme Court decision reported in 2012(1) SCC 558 titled as ***Bharat Sanchar Nigam Limited versus Man Singh.***

8. For the reasons stated above, the Industrial Tribunal Award dated 03.10.2012 is set aside. The respondents are directed to pay compensation of Rs.2 Lacs within a period of 3 months from today failing which the petitioner is entitled to interest @ 9% per annum on the compensation amount from today.

21.11.2016

pooja saini

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

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No