

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 22155 of 2011
Date of decision:-09.08.2016

ParkashPetitioner
Versus

Municipal Council and anotherRespondents

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

Present: Mr. P.S. Khurana, Advocate, for the petitioner.

Mr. Sandeep Khunger, Advocate, for the respondent No.1.

P.B. BAJANTHRI, J. (ORAL)

The petitioner has questioned the validity of the award dated 06.06.2011 passed by the Industrial Tribunal, Ludhiana.

The petitioner was appointed on 04.01.1993 as a Sweeper on monthly wage of ₹ 1,330/-. His services were terminated on 25.01.1999. The petitioner is stated to have sought for reference. In the meanwhile he was appointed as a Sweeper through contractor and continued to discharge the duty of the post as is evident from Annexure P-8, resolution dated 19.12.2011. Labour Court primarily framed following issues:

- “1. Whether the reference is not maintainable as alleged?
2. Whether the order of termination of services of workman is justified and in order?
3. Relief.”

The labour Court after examining various records gave a finding that there is violation of Section 25-F of the Industrial Disputes Act, 1947, however, it is held that the petitioner is entitled to one month salary in lieu of one month notice and retrenchment compensation. In view of the decision of labour Court that there is violation of Section 25-F of the Act consequently the petitioner is entitle for reinstatement.

Learned counsel for the petitioner submitted that policy of the State Government in the year 2011 for regularization of part-time employees including Sweeper in the Local Bodies has been taken into consideration. Pursuant to the same the respondent Nagar Council, Khanna passed a resolution on 19.12.2011 vide Annexure P-8. These documents reveals that post of the Sweeper is in need and part-time and worker's services are regularized from time to time.

Per contra learned counsel for the respondent submitted that the petitioner has not demonstrated that he has worked for more than 240 days as is evident from Ex. M-1/ M-17 (Muster rolls). The issue relating to whether the petitioner has worked for 240 days has not been apprised by the labour Court. On the contrary a finding has been given that there is violation of Section 25-F of the Industrial Disputes Act. The same has not been challenged by the respondent Nagar Council, Khanna to the extent that the petitioner has not continued in service for 240 days in the preceding year. Consequently the petitioner is entitled for reinstatement with continuity of service. He is not entitled for back wages for the reason that his services were engaged as Sweeper only in the Nagar Council through contractor. Thus, the award of the labour Court is modified to the extent that the petitioner-workman is entitled for reinstatement with continuity in service.

Petition stands disposed of accordingly.

(P.B. BAJANTHRI)
JUDGE

09.08.2016

PA

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No