

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

(231)

CWP No. 1466 of 2014

Date of Decision: 15.11.2016

Amarjit Kaur

.....Petitioner(s)

Versus

Presiding Officer, Industrial Tribunal, Labour Court, Patiala and Others

.....Respondent(s)

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

Present: Mr. B.S. Ichhewal, Advocate
for the petitioner.

Mr. N.S. Vashisht, Advocate
for the respondents No. 2 and 3.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, the petitioner has questioned the award passed by the Industrial Tribunal dated 17.09.2013.

2. The petitioner is stated to have been appointed as a Sweeper on part time basis in the respondent-Bank on 06.06.1998. Her services were terminated on 01.09.2003. She has issued a demand notice on 27.10.2004. The Labour Court while deciding the reference No. 147/2005 framed the issues which reads as under:-

“1. Whether the reference is maintainable in spite of the preliminary objections taken in the written statement? OPW

2. Whether the reference is proper as per law? OPW

3. *Whether termination of services of the workwoman is improper and unjustified? OPW*
4. *Whether the workwoman is entitled to get any relief from the respondents? OPW*
5. *Relief.”*

The Labour Court held that there is a violation of Section 25-F of the Industrial Disputes Act, 1947. The petitioner has worked for about 7 years and the reference was pending consideration for about 8 years. Therefore instead of ordering reinstatement, it was of the view that a compensation of ₹ 5,000/- is sufficient. Accordingly, Industrial Tribunal passed an award directing the respondent-Bank to compensate the workman with ₹ 5,000/-. Feeling aggrieved by the award of the Labour Court dated 17.09.2013, the petitioner has presented this petition.

3. Learned counsel for the petitioner submitted that the petitioner was working as a Sweeper and she has worked for about 7 years. Terminating her services is in violation of Section 25-F of the Industrial Disputes Act, 1947. The finding has been given by the Industrial Tribunal in favour of the petitioner. Therefore merely ordering compensation of ₹ 5,000/- is not justified. The petitioner is entitled for reinstatement with continuity of service and back wages.

4. Per contra, learned counsel for the respondents submitted that the petitioner was appointed on part time basis as a Sweeper. Even though, she has worked for 7 years that does not mean that she is entitled for reinstatement with continuity of service, back wages etc., having regard to the nature of her appointment. It is to be noted that the respondent-Bank have accepted the award passed by the Industrial Tribunal. In other words, they have not preferred writ petition. Therefore, there is finality in respect

of order of termination and compensation. Since, the Tribunal has granted compensation of ₹ 5,000 which is in order for the reasons that she was appointed on ad hoc basis.

5. Heard learned counsel for the parties.

6. The petitioner is no more in service since 01.09.2003. Therefore, at this juncture directing the respondent-Bank to reinstate her with continuity of service and back wages do not arise in view of the Supreme Court decision in the case of **Bharat Sanchar Nigam Limited versus Man Singh, (2012) 1 SCC 558**. Therefore, decision of the Industrial Tribunal to award compensation is in order. However, a quantum of compensation of ₹ 5,000 ordered by the Labour Court is too meager having regard to the fact that petitioner served for 7 years. Therefore, the Industrial Tribunal award is modified to the extent of enhancing compensation of ₹ 5,000 to ₹ 3,50,000/-. The respondents are directed to pay compensation of ₹ 3,50,000/- within a period of three months from today. If the compensation is not paid within the stipulated period, the petitioner is entitled to interest @ 6% per annum from today.

7. Petition stands allowed in-part.

(P.B. BAJANTHRI)
JUDGE

15.11.2016

sahil soni

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No