

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17618 of 2013

Date of Decision:-23.12.2016.

Suresh Kumar Verma

.....Petitioner

Versus

Presiding Officer, Industrial Tribunal & Labour Court, U.T. Chandigarh and others

.....Respondents

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

Present: Mr. Narender Pal Bhardwaj, Advocate for the petitioner.

Mr. Navin Mahajan, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, the petitioner has questioned the award passed by the Labour Court dated 1.12.2011 and sought for a direction to modify the same to the extent of granting full back wages (in lieu of reinstatement) on the basis of last salary drawn by him including provident fund, gratuity, leave encashment, pensionary benefits etc. along with interest.

2.) The petitioner was appointed as a Field Sales Representative on 6.5.1992. It was stated that petitioner had resigned in the year 1994 and thereafter, insofar as resignation is concerned, there was amicable settlement between the petitioner and the respondent-company and once again, petitioner was appointed in the year 1994. Thereafter, during the period from 1994 to 2000, the petitioner is stated to have been transferred

on six occasions. The latest transfer is dated 29.12.2000 from Sriganaganagar to Tanjore (Tamil Nadu). Initially, the petitioner disobeyed the order of transfer subsequently, he has reported at Tanjore and submitted leave application on medical ground for about 50 days. The respondent company had not acted upon his leave application. After 50 days of leave, he has not reported back to duty at Tanjore, thus, the respondents have proceed to initiate disciplinary proceedings for remaining unauthorized absent as well as disobeying the posting at Tanjore which resulted in imposing the penalty of termination on 4.2.2003. Thus, the petitioner has raised industrial dispute. The Industrial Tribunal-cum-Labour Court while disposing the reference held that termination is illegal and inquiry is not in accordance with law, thus, proceeded to award a sum of ₹ 1,00,000/- as compensation. The petitioner is aggrieved by the award dated 1.12.2011. Hence, presented this petition.

3.) Learned counsel for the petitioner submitted that when the Labour Court has held that order of termination as well as inquiry is illegal and awarding only compensation is not in accordance with law and it is not fair decision. Whereas, the petitioner should have been reinstated with continuity of service and back wages etc. It was further contended that compensation of ₹ 1,00,000/- is too meager. In support of enhancement of compensation of ₹ 5,00,000/- from ₹ 1,00,000/- he has cited decision of this Court passed in CWP No.4967 of 2011 dated 24.5.2013.

4.) On the other hand, learned counsel for the respondents submitted that having regard to the conduct of the petitioner, he is not entitled for enhancement of compensation. Award passed by the Labour is

unauthorized absent and disobedience of the transfer order passed by the respondent company.

5.) Heard learned counsel for the parties.

6.) Perusal of the records, it is evident that the petitioner has disobeyed the order of transfer initially and subsequently, he has obeyed after reporting at Tanjore. Thereafter, he has submitted leave application for 50 days. After lapse of 50 days, he failed to report back to Tanjore where he was posted pursuant to the order dated 29.12.2000. Thus, the respondent company have proceeded to initiate disciplinary proceedings on the allegation of remaining unauthorized absent and disobeying the order of transfer. The contention of the petitioner that order of termination and inquiry has been held to be illegal by the Labour Court, therefore, petitioner is entitled to the compensation on the higher side of ₹ 5,00,000/- as awarded in CWP No.4967 of 2011 wherein the petitioner had rendered service of 5 years on *ad hoc* basis wherein compensation of ₹ 5,00,000/- has been awarded. Grant of compensation in terms of money depends on facts of the case. In the present case, having regard to the conduct of the petitioner, he remained unauthorized absent and temporarily disobeyed the order of transfer thereby he has caused inconvenience to the respondent company. Such a thing is not existing in the case which has been cited by the petitioner i.e. in CWP No.4967 of 2011 so as to claim compensation on par as awarded in that petition. Proportionate compensation on par with above decision cannot be granted. Further fact being that the petitioner has rendered service in the respondent company from 1994 to 2000 continuously. Therefore, the compensation awarded by the Labour Court

compensation of ₹ 5,00,000/- as he had served respondent company for about six years. The respondent company is directed to pay a sum of ₹ 5,00,000/- to the petitioner within a period of six months from today failing which the petitioner is entitled to 6% interest per annum from today. Accordingly, award of the Labour Court dated 1.12.2011 is modified.

7.) Petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

December 23, 2016.

sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.