

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

CWP No.2049 of 2014

Date of Decision:06.09.2016

Ashok Kumar

... Petitioner

Vs.

Industrial Tribunal and others

... Respondents

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

Present : Mr. Navdeep Singh Brar, Advocate for the petitioner.
Mr. Neeraj Yadav, A.A.G. Punjab.

P.B. BAJANTHRI J.

In the instant petition, the petitioner has questioned the validity of the award dated 10.05.2013.

The petitioner is stated to have been appointed as a Sweeper. He worked with the respondent as Sweeper from 1.1.1990 to 16.9.2002. Whereas on 17.10.2002, the Sub Divisional Engineer, Central Works Sub Division No.1, PWD (B&R) Rajpura by his communication stated that the petitioner was a part time sweeper and the department do not need his service and payment of salary upto 30.9.2002 and service retrenchment claim amount will be made to him at the earliest.

The petitioner raised the industrial dispute before Industrial Tribunal, Patiala who passed the award dated 10.5.2013 directing the respondents to pay compensation to the workman to the tune of Rs.10,000/- within 45 days of the communication of the award failing which the workman will be entitled to the awarded amount alongwith interest @ 6% per annum from the date of passing of the award till realization.

Learned counsel for the petitioner has submitted that the petitioner has worked for more than 12 years, therefore, he is entitled for reinstatement with continuity of service and backwages.

Per contra, learned counsel for the respondents resisted the plea of the petitioner contending that the petitioner is only a part time worker and he has been paid a sum of Rs.250/- per month. Petitioner was not appointed against a sanction post and so also his appointment was not on full time basis. Therefore, question of reinstatement with continuity of service and backwages is not permissible.

Heard learned counsel for the parties.

Having regard to the nature of appointment that the petitioner was part time sweeper, there is no infirmity in terminating the service. Since the petitioner has worked for more than 12 years, compensation awarded by the Industrial Tribunal to the tune of Rs.10,000/- is very meager. The Apex Court in the case of BSNL Ltd. v. Man Singh; (2012) 1 SCC 558 held where the reinstatement and continuity of service cannot be given in such circumstances compensation be awarded. In the present case, the petitioner worked as a part time, therefore, compensation of Rs.10,000/- awarded by the Labour Court is modified to sum of Rs.2,00,000/- for the reasons that the petitioner has rendered 12 years of service. The respondents are directed to pay the compensation of Rs.2,00,000/- within a period of three months from today failing which the petitioner is entitled to interest @ 9% per annum from the date of the award passed by the Industrial Tribunal.

The petition stands allowed.

06.09.2016
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**