

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

**CWP No. 23554 of 2013 (O&M)
Date of Decision: 30.08.2016**

M/S Hindustan Unilever Ltd.

.....Petitioner(s).

Versus

Presiding Officer Labour Court - II Faridabad & Another

....Respondent(s).

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

Present: Mr. Chander Deep Singh, Advocate and
Mr. Gurdip Singh, Advocate for the petitioner.

Respondent No. 2 in person.

P.B. BAJANTHRI, J. (Oral)

The petitioner has questioned the validity of the
Labour Court award dated 16.05.2013.

The respondent workman was appointed as a Junior
Assistant on 03.07.1991. His services have been confirmed. On
19.12.2003, petitioner's one of the unit was closed, where the
workman was working. Consequently, policy decision was taken
by the management-petitioner for terminal benefits. It is evident
that the workman has not opted for such terminal benefits. Thus,

he has raised a dispute. The dispute reference has been made on 18.11.2009, which reads as under:-

“Whether the workman is entitled to reinstatement in the other units of the management like other employees?”

Likewise referring to endorsement dated 25.11.2009, extract of reference is as under:-

“In exercise of the powers conferred by clause (c) of sub Section (I) of Section 10 of the Industrial Disputes Act, 1947 (Act for short), the Governor of Haryana had referred the following dispute between the parties for adjudication vide endorsement No.44277-82 dated 25.11.2009 :-

“Whether services of the workman namely Disnesh Pal Singh terminated illegally? If so, what relief he is entitled to?”

Further, while passing the award, the following relief has been granted which reads as under : -

“As a sequel to my aforesaid discussion while deciding issue No. 1 the claim succeeds and the reference is answered in favour of the claimant and against the respondent holding that the claimant is

entitled to be reinstated in services with continuity of service and all consequential benefits with 50% of back wages from the date of termination of his services with 9% interest. Costs are assessed to be Rs. 2000/-. Copies of award be sent to the authorities concerned and the file be consigned to records.”

Learned counsel for the petitioner submitted that award of the Labour Court dated 16.05.2013 is not in terms of the reference dated 18.11.2009 read with endorsement dated 25.11.2009. Thus, there is non-application of mind in passing the award.

On the other hand, the party in person respondent-workman submitted that Labour Court in its award on the first page while extracting from the endorsement dated 25.11.2009, when compared with the reference, it is a typographical error. Therefore, there is no infirmity except this typographical error.

Heard the learned counsel for the petitioner and respondents-party in person.

Perusal of the records namely order of reference dated 18.11.2009 read with the award and relief granted by the Labour Court, it is evident that it is not in terms of the reference. It is necessary to re-produce last portion of the Labour Court award which reads as under: -

“In the light of the aforesaid facts and circumstances and case laws injustice has been done with the workman and his services have been terminated illegally and arbitrarily without following the procedure and law laid down by under the I.D. Act, 1947 and the law laid down by the Hon'ble Supreme Court of India. As such findings of issue No. 1 are decided in favour of claimant and against the respondent.”

Thus, the Labour Court has erred in passing the award in the normal course. If service has been terminated, there is a violation of Industrial Dispute Act. Consequently, relief has been granted reinstatement with continuity of service and 50% back wages, which is not in accordance with the reference. Therefore, the award dated 16.05.2013 is set aside. Matter is remanded to the Labour Court along with the Lower Court Record. It is requested that the Labour Court to decide the reference afresh within a period of 6 months. The parties are directed to appear before the Labour Court on 23.09.2016.

At this stage, learned counsel for the petitioner submitted that on 19.05.2014, this Court has directed the petitioner to deposit 50% back wages before the Labour Court.

In view of the disposal of this writ petition, 50 % back wages deposited by the petitioner be released to the

petitioner within a period of 3 months.

CWP stands disposed of.

30.08.2016

sahil soni

(P.B. BAJANTHRI)
JUDGE