

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

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**CWP No. 5159 of 2012 (O&M)
Date of decision: 23.12.2016**

Sunil Kumar Sehajpal

....Petitioner

Versus

Presiding officer, Industrial Tribunal and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr.Ashish Grover, Advocate for the petitioner.

Mr. Ramesh Goyal, Advocate for respondents No.2 to 4.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has assailed the award passed by the Industrial Tribunal, Bathinda dated 27.09.2011.

2. Petitioner was appointed on 18.03.1981 as a Medical Service Representative. While working as such in the year 1993, the respondents noticed that petitioner was involved in some criminal proceedings in which he was detained from 07.09.1992 to 27.07.1993 either in police custody or in judicial custody. Therefore, the respondents proceeded to terminate services of the petitioner on 15.03.1993 w.e.f. 22.03.1993. On 20.04.1995, the petitioner was acquitted in the criminal proceedings. Thus, he has filed a suit before the trial court on 18.01.1994. Suit was rejected on 16.09.1995 on the ground of maintainability. Thus, he preferred an appeal before the

appellate court. During pendency of the appeal, petitioner withdrew suit as well as appeal and raised an industrial dispute. The Industrial Tribunal rejected the claim of the petitioner on the ground that petitioner is not a workman and the principle of res judicata would come in the way of granting any relief to the petitioner.

3. Learned counsel for the petitioner relied on the decision passed in CWP No. 15969 of 1996 to contend that Sales Representatives are held to be workman. It was further contended that no inquiry has been held by the respondents before terminating his services. Filing of suit and withdrawal and raising Industrial dispute does not attract principle of res judicata. The Labour Court is incorrect. The Labour court has erred in rejecting the claim of the petitioner.

4. On the other hand, learned counsel for the respondents vehemently contended that termination order is in order having regard to the fact that the petitioner was detained in police or judicial custody during the period from 07.09.1992 to 27.07.1993. Therefore, no infirmity is forthcoming in the order of termination. It was further submitted that petitioner has been paid a sum of Rs. 54,347/- as a compensation. Hence the petitioner has not made out a case so as to interfere with the Labour Court award. Learned counsel for the respondents further submitted that definition of Sales Representative-workman would be prospective from 2009 onwards. Therefore, the principle that the Sales Representative falls under workman is not applicable to the present case.

5. Heard learned counsel for the parties.

6. Short question for consideration in the present petition is whether the petitioner is entitled for reinstatement with continuity of service and back wages or not. Admittedly, the petitioner got himself in trouble in getting involved in a criminal proceedings. Thus respondents are no where responsible for termination of the petitioner. Therefore, no interference is called for insofar as order of termination is concerned. Insofar as payment of compensation granted by the respondents in the year 1993, a sum of Rs.54,347/- is concerned, it is too meagre for the reasons that the petitioner has rendered service from 18.03.1981 to 22.03.1993. Therefore, the respondents are directed to pay compensation of Rs.3 Lacs to the petitioner. The compensation shall be paid by the respondents within a period of 3 months from today failing which the petitioner is entitled to interest from today @ 6% per annum.

7. CWP stands disposed of.

23.12.2016

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No