

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.9730 of 2012

Date of Decision:-16.12.2016.

Roop Chand

.....Petitioner

Versus

The Executive Engineer, PWD, Punjab Health Division No.2, Pataudi,
Gurgaon and another

.....Respondents

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

Present: Mr. Ashwani Bakshi, Advocate for the petitioner.

Mr. Anil Mehta, DAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, the petitioner has assailed the award passed by the Labour Court dated 9.9.2009 vide Annexure P-5. The petitioner was appointed as a Mali-cum-Chowkidar on 1.10.1994 on daily wage basis. His services were terminated on 29.8.1997. The petitioner raised an Industrial dispute. Thus, Reference No.285 of 1998 has been decided by the Labour Court. The Labour Court considered the issue relating to payment of retrenchment compensation which was offered by the respondents to the petitioner on 27.8.1997 Exhibit MW2/3 whereas, the petitioner has refused to accept the same. Thus, the Labour Court has declined to grant relief to the petitioner.

2.) Learned counsel for the petitioner submitted that petitioner has rendered service as a Mali-cum-Chowkidar on daily wage basis from 1994 to 1997. Thus, he is entitled for reinstatement with back wages and continuity of service.

3.) On the other hand, learned counsel for the respondents resisted

the case contending that the petitioner has rendered service of only two

years and few months on daily wage basis. Therefore, he has not made out a case so as to interfere with the Labour Court award dated 9.9.2009. In fact, the respondents have offered retrenchment compensation way back in the year 1997. The same has been refused by the petitioner. In view of Supreme Court decision passed in Secretary, State of Karnataka and others Vs. Uma Devi and others (2006) 4 SCC 1, the petitioner is not entitled for reinstatement or for regularization since his appointment is only on daily wage basis. Therefore, the question of reinstatement, continuity of service and back wages do not arise.

4.) Heard learned counsel for the parties.

5.) Admittedly, the petitioner was appointed on daily wage basis as a Mali-cum-Chowkidar during the period from 1.10.1994 to 28.8.1997. He ceased to be an employee as a daily wager with the respondents on 29.8.1997. Having regard to the decision passed in Uma Devi's case (supra), the petitioner is not entitled for reinstatement. At the best the petitioner is entitled to compensation as held by the Apex Court in the case of Bharat Sanchar Nigam Limited v. Man Singh, (2012) 1 SCC 558.

Thus, in view of these facts and circumstances, Labour Court award is set aside. The respondents are directed to pay a compensation of ₹ 2,00,000/- within a period of four months from today. If the compensation is not paid within the stipulated, the petitioner is entitled for interest @ 6% per annum.

6.) Petition allowed in part.

(P.B. BAJANTHRI)
JUDGE

December 16, 2016.

sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.