

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

229(2)

**CWP-4845-2014 (O&M)
Date of decision: 24.08.2016**

Executive Engineer

....Petitioner

Versus

The Presiding Officer and another

.... Respondents

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

Present: Mr. Anil Mehta, DAG, Haryana.

Mr. N.S.Shekhawat, Advocate for respondent No. 2

P.B. Bajanthri, J. (Oral)

The petitioner-Public Health Engineering Department have questioned the award dated 16.08.2013.

2. The workman-Rajesh was appointed as a Casual Labourer on 01.10.1997. In the month of December, 1997 he was not permitted to work. Thereafter, it seems that workman had raised demand notice on 27.11.2002. The Labour Court passed an award against the workman-Rajesh. Feeling aggrieved by the Award of the Labour Court, he preferred a writ petition before this Court which was numbered as CWP No. 887 of 2011. This Court disposed of cases of Mohan Lal and Rajesh Kumar by common order on 19.03.2013 remanding the matter to the Labour Court with an

observation that department was directed to produce muster rolls pertaining to the period from 1997 to 1999. The Labour Court with reference to the remand order passed Award on 16.08.2013 in favour of the workman-Rajesh holding that workman-Rajesh is entitled for reinstatement with continuity in service and 50% back wages from the date of demand notice i.e. from 27.11.2002. Feeling aggrieved by the Award dated 16.08.2013 the Public Health Engineering Department-petitioner have filed this petition.

3. Learned counsel for the petitioner vehemently contended that the workman has worked as a Casual Labourer only for 78 days. Assuming that petitioner had not produced any records before the Labour Court like muster roll for the period from 01.07.1997 to 30.11.1998 but still having regard to the length of service of two years workman-Rajesh is not entitled for reinstatement with continuity of service and 50% of back wages. That apart, workman-Rajesh is out of service since 1997. Therefore, Labour Court erred in holding that workman is entitle to reinstatement with continuity of service and 50% of back wages from the date of demand notice.

4. Per contra, learned counsel for the respondent-workman submitted that he was appointed on 01.10.1997. Workman was not allowed to work from December, 1997 onwards and he has filed a demand notice. On 25.11.2002 he was before the Labour Court and before this Court during the intervening period from 2002 to 2016. Therefore, there is no infirmity in the Award passed by the Labour Court. Further it was submitted that the petitioner was given sufficient time to furnish muster roll for the intervening

period from 01.10.1997 to December, 1997. They have not produced the necessary materials before the Labour Court to support their case. Consequently, there is no infirmity in inference drawn by the Labour Court.

5. Learned counsel for the respondent submitted that the Department-petitioner is still considering reinstatement of daily wagers whose services were terminated. He has cited decision in support of this issue. Facts of the present case and the cited decision are not identical in so far as length of service rendered by the workman. In the present case, workman has hardly worked during the period from 01.10.1997 to December, 1997. Therefore, question of reinstating the respondent-workman with consequential benefits and back wages do not arise. He is entitled only for compensation in terms of the decision of the Apex Court passed in ***BSNL Versus Maan Singh*** reported in 2012(1)SCC 558.

6. The principle laid down in the case of ***BSNL versus Maan Singh*** is to be taken note of then the respondent-workman is entitled to compensation of Rs.1 lac. The petitioner is directed to pay compensation of Rs.1 lac within a period of 6 months from today. Accordingly, the Award of the Labour Court is modified from “workman is entitled to reinstatement with continuity of service and 50% back wages from the date of demand notice, i.e. 27.11.2002” to compensation of Rs.1 Lac.

(P.B.BAJANTHRI)
JUDGE

24.08.2016

pooja saini

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No