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

CWP-8429-2013

Date of decision: 02.02.2016

Pradeep Kaushik

..... Petitioner

VERSUS

M/s Shree Cement Ltd. and another

..... Respondents

CWP-23942-2013

M/s Shree Cements Ltd.

..... Petitioner

VERSUS

The Presiding Officer and another

..... Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

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

Mr. R.S. Hooda, Advocate for respondent No.1.

SABINA, J.

Vide this order, above-mentioned two writ petitions would be disposed of as the award dated 20.04.2012 (Annexure P-1) passed by the Industrial Tribunal-cum-Labour Court is under challenge.

Workman-Pradeep Kaushik had raised an industrial dispute by serving a demand notice challenging his termination. The dispute raised by the workman was referred for

adjudication to the Industrial Tribunal-cum-Labour Court II, Gurgaon by the appropriate Government.

The case of the workman, in brief, was that he was appointed on 26.04.2000 with the respondent-Management as Clerk-cum-Typist on a monthly salary of ₹ 3500/-. On 03.10.2002, services of the workman were terminated illegally without complying with the mandatory provisions of the Industrial Disputes Act, 1947 (for short Act).

Respondent-Management in its written statement averred that the workman had worked as a casual labourer on daily-wage basis and had been called for the purpose of typing work in the office of respondent-Management. After March 2002, workman had never worked in the office of respondent-Management.

On the pleadings of the parties following issues were framed by the Industrial Tribunal-cum-Labour Court:-

- “(1) Whether there existed relationship of employer and employee between the parties ? OPW
- (2) If issue No.1 is proved in affirmative, whether the services of the petitioner have been terminated illegal ? OPW
- (3) Whether the reference is not maintainable in view of prel. Objection ? OPM
- (4) Relief.”

Workman led his evidence in support of his case. However, respondent-Management failed to lead any evidence.

The Industrial Tribunal-cum-Labour Court vide award dated 20.04.2012 held that the services of the workman had been illegally terminated without following the due procedure. Further, the Industrial Tribunal-cum-Labour Court held that in lieu of his reinstatement workman was entitled to lump sum compensation, which was assessed to the tune of ₹ 30,000/-. Hence, the present petition by the workman as well as by the respondent-Management.

Learned counsel for the workman has submitted that the compensation awarded by the Industrial Tribunal-cum-Labour Court was a lower side. Workman had worked with respondent-Management for about 2 ½ years. The amount of compensation was liable to be enhanced.

Learned counsel for the Management has submitted that the Industrial Tribunal-cum-Labour Court had erred in holding that the workman had been appointed on regular basis. In fact, the workman was working on voucher basis and was not in service of respondent-Management on regular basis.

Pradeep Kaushik-workman appeared in the witness-box as PW-1 and proved on record documents Exhibit-P1 to P-23. Workman while appearing in witness-box deposed as per his claim. Exhibit P-2 is the certificate issued by respondent-Management. The said certificate is dated

02.05.2001. A perusal of the same reveals that workman had been working with respondent-Management since 25.07.2000 as Steno-typist on voucher payment basis. The workman was paid ₹ 3500/- per month, which was enhanced to ₹ 4,000/- per month. Initially, the appointment was sanctioned upto 31.03.2001 and request was made that extension for appointment be granted for next six months. Vide Exhibit-P3 dated 14.05.2001, approval was granted for appointment of the workman upto 30.09.2001 on a monthly salary of ₹ 4,000/- per month. Workman had also proved on record copy of TA Bills Exhibit P-4 to Exhibit P-21. In the absence of any evidence in rebuttal, the Industrial Tribunal-cum-Labour Court had rightly held that the workman was working with respondent-Management as Steno-typist from 25.07.2000 onwards. Initially, the workman was being paid ₹ 3500/- per month as his salary, but later it was enhanced to ₹ 4000/- per month, vide Exhibit P-3. The services of the workman were terminated on 03.10.2002. The Industrial Tribunal-cum-Labour Court fell in error while holding that the workman was working on regular basis and not on daily-wage basis. Rather from Exhibit P-2, it is evident that the workman was working on voucher payment basis as a Steno-typist with respondent-Management. Thus, it can be said that workman was working with respondent-Management as Steno-typist on voucher payment basis w.e.f. 22.05.2001 to 03.10.2002. The

services of the workman were terminated without complying with the mandatory provisions of Section 25-F of the Act. The learned Industrial Tribunal-cum-Labour Court while assessing the amount of compensation liable to be paid to the workman held that the workman was entitled to lump sum compensation to the tune of ₹ 30,000/-. The said amount of compensation calculated by the Industrial Tribunal-cum-Labour Court is on a lower side.

Keeping in view the fact that the workman had worked with Management for 2 ½ years and it would be just an expedient to enhance the amount of compensation. Accordingly, the award dated 20.04.2012 passed by the Industrial Tribunal-cum-Labour Court is modified to the extent that Management is liable to pay compensation to the tune of ₹ 1,25,000/- to the workman-Pradeep Kaushik. It is, further, ordered that the amount of compensation be paid to the workman by the Management within two months from the receipt of the certified copy of this order, failing which the workman would be entitled to receive the said amount alongwith interest at the rate of ₹ 9% per annum from the date of passing of this order till realization.

Both petitions stand disposed of accordingly.

February 02, 2016
Ramandeep Singh

**(SABINA)
JUDGE**