

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

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**CWP No. 8269 of 2014(O&M)
Date of decision: 15.09.2016**

Divisional Forest Officer and others

.... Petitioners

Versus

Presiding Officer and others

.... Respondents

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

Present: Mr. Anil Mehta, DAG, Haryana.

Mr. Manoj Chahal, Advocate for the respondents.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioners have questioned the award dated 02.09.2013 vide Annexure P1. The respondent No.2 was appointed as a Beldar-cum-Mali on 22.10.1994 and his services were stated to have been terminated on 07.12.1997. On 02.09.2013, Labour Court held that respondent No.2 is entitled to be reinstated on his previous post with continuity of service alongwith 50% back wages from the date of demand notice. Thus, petitioners have presented this petition.

2. Learned counsel for the petitioners submitted that respondent No.2-workman is aged about 65 years as on the date of presentation of this petition. As on the date of disposal of the reference he was aged about 62 years. Therefore, question of reinstating with continuity of service do not arise. Hence the Award dated 02.09.2013 is to be modified.

3. Per contra, learned counsel for the respondents submitted that respondent No. 2-workman has made out a case before the Labour Court

that his termination is illegal. Even though, due to new development that petitioner is aged about 62 years as on 02.09.2013 the date on which the Award was passed he is not entitled for reinstatement with continuity of service. However, he is entitled for 50% back wages and other consequential benefits. Respondent No.2-workman was appointed on *ad hoc* basis in the Forest Department from 1994 to 1997. Since his initial appointment was not in accordance with the rules of recruitment. Consequently, he is not entitled for reinstatement and continuity of service for the reasons that he hardly discharged duties for about 3 years and 2 months.

4. In view of the decision passed by the Supreme Court in the case titled as ***Bharat Sanchar Nigam Limited versus Maan Singh*** reported in 2012(1) SCC 558, due to passage of time, question of reinstatement with continuity of service and back wages is impermissible. In such circumstances, compensation can be awarded. Thus, the respondent No. 2 is entitled for compensation of Rs. 3 lacs. The petitioners are directed to pay the compensation of Rs. 3 lacs within a period of 4 months from today failing which the respondent No.2 is entitled to interest @ 9% per annum from today.

15.09.2016

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No