

In the High Court of Punjab and Haryana at Chandigarh

LPA No. 1246 of 2015 (O&M)

Date of Decision: February Ist, 2016

Dharampal

---Appellant

versus

State of Haryana and others

---Respondents

**Coram: Hon'ble Mr. Justice Rajive Bhalla
Hon'ble Mrs. Justice Rekha Mittal**

Present: None for the appellant

Mr. R.D.Sharma, DAG, Haryana

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

CM No.2655-LPA of 2015

Prayer in this application is to condone delay of 121 days in filing the appeal.

We have perused averments in the application and as sufficient cause has been shown, allow the application and condone delay of 121 days in filing the appeal.

LPA No. 1246 of 2015

The present appeal has been preferred against judgment dated 23.3.2015 passed by the learned Single Judge, dismissing the petition filed

by the workman challenging award dated 6.3.2009 passed by the Industrial Tribunal-cum-Labour Court, Hisar whereby the appellant has been awarded ₹ 20,000/- as compensation, instead of reinstatement.

Dharampal- the appellant was appointed as Beldar-cum-Mali in the year 1992 but was not allowed to resume his duty from the first week of January 2002. Dharampal preferred a reference against his wrongful termination. The Industrial Tribunal-cum- Labour Court held that though termination is illegal but instead of reinstatement awarded compensation of ₹ 20,000/-. The appellant filed a writ petition, praying for reinstatement instead of compensation, but the writ petition has been dismissed.

After considering the pleadings and the arguments, notice was issued on the quantum of compensation alone.

It has been averred in the grounds of appeal that the appellant has put in more than 09 years of service. The amount of Rs.20,000/- awarded as compensation is not only paltry but a mockery of the appellant's rights.

Counsel for the respondents supports the impugned order and the award passed by the Industrial Tribunal-cum-Labour Court, Hisar, by a submission that as the appellant failed to adduce any tangible evidence to substantiate his plea that he worked as a Mali from 5.3.1992 to 31.12.2001, the compensation awarded is just and proper. Counsel for the respondent further argues that the appellant was engaged in the year 1992 on casual basis, and he could not prove that he worked continuously without any break within the said period. The compensation is therefore, just and valid.

We have heard counsel for the State, perused the impugned

order and the award passed by the Industrial Tribunal-cum-Labour Court, Hisar. The appellant, as held by the Tribunal, had worked as a gardener for more than 09 years before his services were illegally terminated. The Tribunal, however, awarded a paltry compensation of Rs.20,000/- in lieu of reinstatement. The compensation, in our opinion, to be awarded, in lieu of reinstatement must have relation to the nature of service, the salary drawn, the length of service and the amount payable in case back wages are awarded. The compensation of Rs.20,000/- awarded without reference to these principles is wholly inadequate. The appellant has worked for more than 09 years before his termination. If the appellant was ordered to be reinstated, the respondents would have to pay between 8 to 10 lacs as arrears of salary. Thus, taking into consideration these facts, the ends of justice would be served if the appellant is awarded compensation of Rs. 3 lacs. The appeal is allowed, the order passed in the writ petition and the impugned award are modified accordingly.

(Rajive Bhalla)
Judge

(Rekha Mittal)
Judge

February 1st, 2016

PARAMJIT