

LPA no. 1726 of 2015 (O&M) 1

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

**LPA no. 1726 of 2015 (O&M)
Date of Decision :15.07.2016**

PSEB (now Punjab State Power Supply Corporation Ltd.) and others

....Appellant(s)

Versus

Kulwant Singh and another

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE DR. SHEKHER DHAWAN**

- 1)Whether reporters of local newspapers may be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in the Digest?

Present : Ms. J.K.Gurna, Advocate for the appellants

Mr. H.S.Batth, Advocate for the respondent- workman

MAHESH GROVER, J.

This appeal is directed against the judgment of the learned Single Judge dated 26.8.2015.

The workman had claimed a reference when his services were terminated by pleading that he had completed 387 days of employment with the appellants and his services have been terminated without compliance of provisions of Section 25-F of the Act.

The appellants denied relationship of employee and employer to contend that the workman was an employee of the contractor through whom he had been engaged. However, neither the contractor nor any evidence in

this regard was led. Similarly, witness of the management failed to produce muster roll of the period from April, 1997 to June, 1998, the relevant period. The Industrial Tribunal went on to held that the termination of the workman was erroneous, contrary to law, in the breach of Section 25 F of the Industrial Disputes Act and granted him reinstatement with 40% back wages. Learned Single Judge approved the findings of the Tribunal without any modification.

Before this Court, learned counsel for the appellant in the first instance stated that the appellants are willing to reinstate the workman within 15 days provided the issue of back wages is re-considered. Notice of motion was issued on the strength of this statement which the counsel for the appellant chose to resile from and moved an application in this regard pleading no instructions to make such statement.

We granted the prayer, to permit the learned counsel for the appellants, to address her arguments de hors the earlier statement made by her.

We have now considered the merits of the case and during the course of arguments a similar prayer has been once again made by the learned counsel for the appellants that they are willing to reinstate the workman if the issue of back wages is re-considered.

Upon a perusal of the matter, we find that there has been a clear violation of provisions of Section 25-F, particularly, when the workman had completed 387 days of employment with the appellants. No record was produced by the management either to substantiate their plea of workman not being their employee or muster roll to dispute the period of employment

and neither was any record produced to show that there was no breach of

Section 25-F. Even before this Court nothing has been shown.

Therefore, we are of the considered view that it is a fit case where no interference is warranted. The issue of back wages has been dealt with by the Labour Court which did not find interference with by the learned Single Judge. Warranting an interference in the same would tantamount to imposing our perception over that of the learned Single Judge in which we do not find any illegality. We, therefore, decline to interfere in the proceedings. We also notice the conduct of the appellants who have failed to demonstrate their bona fides. We may state here at the cost of repetition that notice of motion was issued largely on the strength of the statement made by the learned counsel for the appellants which was disowned by her subsequently but astonishingly the same statement was made before us during the course of arguments. If the appellants were honest about reinstating the workman they would have done it by now rather than keeping him away from employment since 2015 when he had findings of an award in his favour.

Looking at this aspect, we are convinced that 40 % of the back wages ought to be given to the workman to go either by the nomenclature of back wages or compensation for the unjustness of the appellants.

Hence, dismissed.

In view of above, all pending applications are also disposed of.

(Mahesh Grover)
Judge

(Shekher Dhawan)
Judge

15.07.2016
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