

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

LPA No.1356 of 2016 (O&M)

Date of Decision : 06.10.2016

The Distt.Education Officer and others

....Appellants

Versus

Satbir and another

....Respondents

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

...
Present: Mr. Gagandeep S.Wasu, Addl.AG, Haryana.
...

MAHESH GROVER, J.

This appeal is directed against the judgment of the learned Single Judge dated 16.02.2016 upholding the award of the Labour Court entitling the workman to reinstatement with continuity of service and back wages. The workman had raised a demand questioning the termination of his services abruptly and in complete violation of Section 25-F of the Industrial Disputes Act, 1948 (hereinafter referred to as 'the Act'). The plea was accepted by the Labour Court and affirmed by this Court when challenged in writ proceedings.

Learned counsel for the appellant does not dispute that there is a violation of Section 25-F of the Act but merely states that since the workman was working on part time basis, his reinstatement should not have been ordered particularly when

there was no post existing in the year 2001. He makes a reference to the judgment relied upon by the learned Single Judge i.e. *Municipal Council, Dina Nagar, Tehsil & Distt. Gurdaspur Versus Presiding Officer, Labour Court, Gurdaspur and another*, **2014(4) S.C.T. 514** and in particular the following clause :-

“(iii) The right of reinstatement, however, is not an automatic right as such and while directing reinstatement, the Labour Court will have to take into consideration various aspects as to the nature of appointment, the availability of a post, the availability of work, whether the appointment was per se rules and the statutory provisions and the length of service and the delay in raising the industrial dispute before any award of reinstatement could follow in cases of persons appointed on a short term basis and as daily wagers and who had not worked for long period but solely on the strength of having completed 240 days, would not per se be entitled for reinstatement as such, even though the retrenchment was void.”

We have no quarrel with the proposition of law propounded above but considering the fact that the workman has put in 16 years of service and the fact that there is nothing on record to suggest that the post stood abolished and also noticing the fact that the appellants themselves have recommended regular appointment for the workman, we are of the opinion that there is no error in law committed by the learned Single Judge who has upheld the award of the Labour Court by noticing that more than 16 years of service was rendered by the workman whose services were abruptly terminated in violation of Section 25-F of the Act, which position is not controverted by the learned counsel for the

appellant.

Apart from this, the appeal is also barred by an inordinate delay of 119 days which we do not intend to condone in the absence of any plausible explanation.

Dismissed.

(MAHESH GROVER)
JUDGE

06.10.2016
dss

(SHEKHER DHAWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No