

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

LPA No.178 of 2016 (O&M)

Date of Decision : 23.08.2016

The Commanding Officer

....Appellant

Versus

Ordinance Civilian Karamchari Sangh

....Respondent

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

Present: Mr. Brijeshwar Singh Kanwar, Advocate
for the appellant.

Col.Sandeep Sharma, 23 Field Ammunition Depot,
in person.

.....

MAHESH GROVER, J.

This appeal is directed against the judgment of the
learned Single Judge dated 31.07.2015.

Respondent No.1-Ordinance Civilian Karamchari
Sangh (hereinafter known as 'the Sangh'), an association of
workers, had approached the Industrial Tribunal with a grievance
that even though they had been recruited through proper channel
i.e. employment exchange pursuant to the instructions of the
higher authorities in the year 1994, their services were terminated
after having put in 3-4 years of employment. As many as 184
workers were affected. They impugned the action of the
appellant to be contrary to the provisions of the Industrial
Disputes Act, 1947 as the retrenchment was without any notice.

During the proceedings before the Labour Court an order was passed on 21.07.2008 which needs to be extracted herebelow even though it is a part of the impugned order as well :-

“As per office memorandum dated 30.4.2008, this case was fixed in pre Lok Adalat meeting on 21.7.08 Ludhiana Camp for its disposal by adopting the mediation and conciliation mechanism. With the efforts of the Tribunal, the workmen agreed to withdraw their reference. The management also agreed that they will be moving to the Govt. of India for engaging the workmen on daily wage who are in reference. The workmen made a statement that there is a consensus that after getting the sanction from the Central Govt. for executing the job for the daily wage workers, the workmen whose name are in the reference shall be given priority. The prescribed authority of the management and the workmen during the hearing of this case in pre Lok Adalat agreed upon the above mentioned terms and conditions. It is proposed to dispose off this reference in Lok Adalat. Accordingly the reference is returned to the Central Govt. as settled in Lok Adalat. Central Govt. be informed. File be consigned.”

Despite the aforesaid, the award did not find compliance and an application was moved before the Tribunal as also a Civil Revision bearing No.1049 of 2011 before this Court. The terms of the settlement dated 11.4.2011 inter se between the parties may also be extracted herebelow :-

“Case is taken up for hearing in Lok Adalat through conciliation mechanism. All the workmen are present. Prescribed Authority Major Geetanjali is present. Learned counsels for the parties are also present.

Long discussion took place. It came before this Tribunal that there is a deficiency of about 100 workers (approximately) in permanent cadre. It also came before this Tribunal that in case of emergency, this deficiency may increase.

It is settled that prescribed authority should move to the head office for getting the sanction for the appointment against the deficient posts. It is also agreed that while approaching the Head Office, demand for casual workers shall also be raised. It is further agreed upon that even if any single appointment or engagement will be made in permanent cadre or on casual basis, the same shall be as per the award dated 21.7.08 passed by this Tribunal.

The management shall honour the award and preference shall be given amongst the workers who were party to the reference before this Tribunal.

It is furthermore agreed upon that representative of the workman shall visit to the office of the prescribed authority on 13.4.2011 and present a list of workers who are eligible and available. Major Geetanjali has shown her commitment and sincerity for implantation of the award passed by this Tribunal.

All the workmen are satisfied with the above proposition. Subject to this, the application filed by the workmen is disposed of. File be consigned. A copy of this order be provided to the parties free of costs.

Sd/-P.O
Chd.11.4.2011.”

The learned Single Judge noticed that a cumulative reading of the aforesaid terms of settlement would leave no room for doubt that the appellant was bound to rehabilitate the retrenched workers and thus accepted the challenge of the association with costs of Rs.50,000/- to be paid by the present appellant. The appellant now questions the order of the learned Single Judge and contends that the arrangement projected by the Labour Court for rehabilitation of the retrenched workmen was obviously subject to eligibility and rules, and since most of them

would not find themselves to be on the correct side of the rules and regulations, the appellant would be unable to grant them any concession in employment.

We are afraid such a plea cannot be raised by the appellant at this stage. At best this appeal as also the statement suffered on behalf of the officer authorised in this behalf seem to be an exercise deeply rooted in dishonesty. If the rules and eligibility conditions were to be made a condition precedent to re-engage all those employees, then it should have been specifically brought out at the time of settlement and not concealed beneath layers of cleverly worded statements. Had the workers been alerted to such contingencies to which they were proposed to be bound to, they would have exercised their choice of either accepting it or rejecting it to fight their battle to its legitimate end in accordance with law. It is the statement of the appellant purportedly sold as a settlement which was accepted by the gullible workers to withdraw their reference and thus in the opinion of the Court it is only a fraud played by the appellant both on workmen and the courts and should be construed as an obstruction in the course of justice to invite logical proceedings which we would have initiated at our end but we are told that proceedings under the Contempt of Courts Act are already pending and in fact this makes it worse for the appellant as we are not permitting the appellant to use the present appeal as a shield

to be used as protection in the contempt proceedings.

We make it clear that opportunity was given to the appellant by adjourning the matter to enable them to seek instructions in regard to compliance, but they have merely offered a statement that matter is under consideration with higher authorities which to us is not an acceptable plea as it smacks of bureaucratic jargon with no concrete offer. We, therefore, do not intend to succumb to such explanation. Suffice it to say that the appeal is totally without any merit and smacks of complete dishonesty at the end of the appellant to frustrate the claims of more than 180 daily wage workers who have been fighting their battle since 1998. Apart from this, the appeal is also barred by an inordinate delay of 116 days which we do not intend to condone in the absence of any plausible explanation.

Appeal dismissed.

(MAHESH GROVER)

JUDGE

23.08.2016

dss

(SHEKHER DHAWAN)

JUDGE

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