

In the High Court of Punjab and Haryana, at Chandigarh

Letters Patent Appeal No. 621 of 2016 (O&M)

Date of Decision: 20.12.2016

Rajender Singh

... Appellant(s)

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak and

Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Mahesh Grover.
Hon'ble Mr. Justice Shekher Dhawan.**

Present: Mr. Sandeep Singal, Advocate
for the appellant.

Ms. Kirti Singh, DAG Haryana
for the respondent.

Mahesh Grover, J.

On 11.7.2016, we have passed the following order:-

This appeal is directed against the judgment of the learned Single Judge dated 20.1.2016. We may notice the facts in brief that the appellant worked with respondent nos. 2 and 3 (hereinafter referred as 'the Management') after having been employed as Beldar-cum-Pump Operator on 23.3.1996. His services were terminated on 28.11.1997. Thereupon an industrial dispute was raised which was answered on 20.12.2007 entitling the appellant to reinstatement in service with continuity and 50% back wages This award was

challenged by the Management before this Court by way of writ petition which was accepted and the award of the Labour Court was set aside in toto by observing that the initial appointment of the workman was contrary to rules of the appointment. This award attained finality as appellant did not challenge the same ostensibly for the reason that in the interregnum when the writ petition was pending he was taken back in service as a measure of execution of the award.

His services were then again terminated on 25.5.2012 which was challenged by him by raising an industrial dispute once again which was answered by the Labour Court on 22.9.2015 (Annexure P-5). Reference claimed by the appellant was declined as it was held that it was not a fresh appointment but an appointment as a measure of compliance of the earlier award in his favour which subsequently was negated by this Court thereby relating the dismissal to the order of this Court.

Learned Single Judge has upheld the award of the Labour Court which is cause of grievance to the appellant.

In so far as findings recorded by the Tribunal as affirmed by the learned Single Judge regarding the service of the appellant not being a fresh appointment are concerned, we would concur with the same. Apparently the appellant was taken back in service pursuant to the earlier award of 2007 in his favour which, however, did not find approval of this Court.

Once this Court negated the award in appropriate proceedings and even commented on the initial appointment of the appellant being contrary to the rules of appointment, he would have no cause to agitate. But we find that the respondent – Management has also been negligent to a large extent.

The writ proceedings against the earlier award of 2007 culminated on October, 2008 but the respondents permitted the appellant to continue in service for 4 years. The plea that the decision of the Court came to their notice belatedly would not be a plea to be accepted by this Court.

Permitting the appellant to continue for 4 long years would certainly entitle him to some compensation if his services have been dispensed with abruptly.

Issue notice on this aspect alone for 21.9.2016.”

Learned counsel representing the State points out that once the award of the Labour Court has been negated by this Court, there would be no occasion to treat the employment of the appellant as fresh appointment, which has also been rightly noticed by the learned Single Judge.

The only issue of compensation, noticed by this Court, would also not be a feasible course considering that the appellant was permitted to work even after the judgment was rendered by this Court. Ordinarily, his services should have come to an end in the year 2008 itself but having been permitted to work, he would also be having access to the emoluments which he earned and therefore, equities have been well balanced.

We are in agreement with the contention raised by learned

counsel for the respondents and therefore, find no error in the impugned judgment for the reasons which have already been set out in the afore-extracted order dated 11.7.2016.

Consequently, the instant appeal stands dismissed.

(Mahesh Grover)
Judge

(Shekher Dhawan)
Judge

December 20, 2016
“DK”

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