

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

DATE OF DECISION : 7.10.2016

1. L.P.A. No.722 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Ramesh Kumar and another.
2. L.P.A. No.1765 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Dev Raj.
3. L.P.A. No.1766 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Satish Kumar.
4. L.P.A. No.1767 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Baljit Singh.
5. L.P.A. No.1768 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Som Nath.
6. L.P.A. No.1777 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Baljit Singh.
7. L.P.A. No.1793 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Ram Niwas.
8. L.P.A. No.1798 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Onkar.
9. L.P.A. No.1799 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Sudesh Kumar.
10. L.P.A. No.1800 of 2016 (O&M)
M/s Naraingarh Sugar Mills v. Sukhdev Singh.

11. L.P.A. No.1807 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Om Parkash.
12. L.P.A. No.1816 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Jagbir Singh.
13. L.P.A. No.1826 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Jaswinder Singh.
14. L.P.A. No.1829 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Bhiwani Singh.
15. L.P.A. No.1860 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Rajinder Singh.
16. L.P.A. No.2000 of 2016
M/s Naraingarh Sugar Mills Ltd. v. Parmod.
17. L.P.A. No.2007 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Sudesh Kumar.
18. L.P.A. No.2008 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Prem Chand.
19. L.P.A. No.2009 of 2016(O&M)
M/s Naraingarh Sugar Mills Ltd. v. Gurdev Singh.
20. L.P.A. No.2010 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Baljinder Singh.
21. L.P.A. No.2011 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Radhey Shyam.
22. L.P.A. No.2012 of 2016 (O&M)
M/s Naraingarh Sugar Mills Ltd. v. Mam Chand.

23. L.P.A. No.2016 of 2016 (O&M)

M/s Naraingarh Sugar Mills Ltd. v. Pirthi Chand.

24. L.P.A. No.2006 of 2016 (O&M)

M/s Naraingarh Sugar Mills Ltd. v. Jai Bhagwan.

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

Present:- Shri Gurminder Singh, Senior Advocate with
Mr.G.S.Bedi, Advocate for the appellants.

MAHESH GROVER, J.

By this order we will dispose of L.P.A. Nos.722,1765 to 1768, 1777, 1793,1798,1799,1800,1807,1816,1826,1829,1860, 2000, 2007 to 2012 and 2016 of 2016.

The appellants have filed the instant appeal against the judgment of the learned Single Judge dated 28.10.2015. The respondent (hereinafter called the workman) had approached the Labour Court with a plea that the appellants be directed to honour the settlement dated 3.12.1999, the relevant terms of which were extracted by the learned Single Judge in the judgment and we would for the sake of clarity, reproduce the same here as well :-

“ii. As soon as the session on 1999-2000 would begin, the Management would take on duty all the workmen who were working in the previous session. The workers who raised slogans against the management during the strike and who abused the management, would beg pardon in writing from the management and then they would be taken on duty. Similarly the workers against whom FIR has been lodged, they would

not be taken on duty for now and they would be allowed to join duties as per the atmosphere.

iii. Those workers who have worked during the previous season year 1998-1999 would be allowed to join duties as per their respective categories of work.

[illegible]

v. A Committee of four persons would be constituted in which two persons would be from management and two from workers. This Committee would prepare the seniority list of the workers working in the concern as per record which will be acceptable to both the parties.

In the end, all the workers have assured that they would give the full production, maintaining the discipline and the management would not resort to any sort of biased attitude towards any worker due to the said strike.”

The Labour Court declined to interfere leading to the writ petitions which were accepted by the learned Judge who awarded a compensation of Rs.10 lacs each to the workmen. The consensual stand of the parties was noticed on the issue of reinstatement which had largely been rendered illusory leading to the grant of an alternative relief. Before the Writ Court as also before us, the appellants contended that the workmen in whose cases the settlement was not implemented, were at fault themselves as they did not report for duty to enable them to re-employment. This plea was discarded by the learned Single Judge by making a reference to the ground of the writ petition highlighting the statement of witness of the Management, MW-4 who had stated in his cross-examination that at no stage of the proceedings either before the Hon'ble Court or the Labour Commissioner or the Conciliation Officer or before the Labour Court, an offer was made to the

petitioners to join their duty. In any eventuality, this is a question which was largely dependent on evidence which unfortunately is lacking in this regard. Before us, a strenuous effort has been made to contend that the workmen's services were seasonal in nature and in terms of the provisions of Section 2(oo)(b) the Industrial Disputes Act, 1947 (hereinafter referred to as the Act), dispensing with the services of the workmen would not come within the ambit of retrenchment. It is thus, clear that a reference under Section 10(1)(b) itself was not maintainable.

It is, however, not denied before us that a settlement at an earlier point of time was indeed the foundation of the entire dispute which has now culminated in the present appeals. At a prior point of time, the workmen had approached this Court but vide order dated 5.4.2001 passed in C.W.P. No.7492 of 2000, they were relegated to the remedy under the Act, if so advised. Pursuant thereto, a demand was raised urging that the agreement between the Management and the workers was binding on the workers with entitlement to reinstatement as a consequence thereof. C.W.P. No.11957 of 2002 was filed by Naraingarh Sugar Mills Workers Union questioning the order dated 22.2.2002 passed by the State making a reference to the Industrial Tribunal. In these proceedings, the counsel representing the appellant conceded that the settlement between the appellant and the worker dated 3.12.1999 was still subsisting and if the petitioners had any right under the same, they could proceed under Section 29 of the Act and in this eventuality, he would not insist on the issue of the delay. The writ petition was thus, disposed of with liberty to the workmen to raise the issue of implementation of the agreement in terms of Section 29 of the Act before the Industrial Tribunal.

An argument has now been raised that even though liberty was granted to raise the plea under Section 29 of the Act, no such application was filed and rather, a demand was raised simpliciter for implementation of the award. Rule 29 of the Act may be extracted here below :-

“29. **Penalty for breach of settlement of award.-** Any person who commits a breach of any term of any settlement or award, which is binding on him under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, (and where the breach is a continuing one, with a further fine which may extend to two hundred rupees for every day during which the breach continues after the conviction for the first) and the Court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has been injured by such breach).”

Evidently, it talks of penalties for breach of settlement of the award. It has been strenuously argued before us that the claim statement was not thus in accordance with the liberty obtained before the Writ Court, as extracted above. In fact, an assertion was made that the workmen made no insistence on the agreement.

A perusal of the claim petition which has been placed on record as Annexure A-9, reveals a contrary picture where the workmen have asked for implementation of the agreement alone and therefore, to say that the agreement was not insisted upon, would be a fallacy as would also be the argument that it had not been properly styled by assigning an appropriate provision of the Act to it. It is the content which has to be seen and the larger relief cannot be denied on this hypertechnicality when we are considering the case of a workmen who have been in the throes of litigation for a decade and a half. Therefore, this plea has to be rejected outrightly.

There is thus, no redeeming feature as far as the merits of the

controversy regarding the agreement are concerned as we feel that the appellant would certainly be bound to implement the agreement and once they have stated that reinstatement is not a course available, then an alternative relief would be the only choice available. During the course of arguments, when we found ourselves unable to agree with the persuasive argument of the counsel for the appellant, we put it to him as to whether he was willing to settle the issues by immediate grant of monetary relief to the workmen in case they are willing to let go off some portion of their compensation awarded by the learned Single Judge to which the appellant offered a refusal.

Consequently, we find no reason to interfere with the findings of the learned Single Judge even on the issue of compensation as it has been noticed in the impugned judgment that the workmen have been “fighting a unsavory battle for the last 15 to 16 years”. Since the learned Single Judge has exercised his discretion in granting compensation, we would not like to interfere with the same as it does not smack of any perversity or illegality and thus, any other view would be merely a super-imposition of one discretion over the other. However, we feel that the costs of Rs.5 lacs on the Management have been unreasonably granted particularly when the compensation would have adequately served the ends of justice.

While setting aside the portion of the order imposing costs of Rs.5 lacs, the appeals are dismissed which are also barred by an inordinate delay ranging from 97 days to 312 days which we also do not intend to condone in the absence of any satisfactory explanation

(MAHESH GROVER)
JUDGE

(SHEKHER DHAWAN)
JUDGE

October 7, 2016

GD

Whether speaking/reasoned	Yes
Whether reportable	Yes/No