

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

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1. L.P.A No. 990 of 2016 (O&M)

Divisional Forest Officer (Territorial), Jhajjar & Anr. Petitioners

Vs.

Sh. Suresh Kumar & Anr. Respondents

2. L.P.A Nos. 757 of 2016 (O&M)

Divisional Forest Officer (Territorial), Jhajjar & Anr. Petitioners

Vs.

Sh. Sher Singh & Anr. Respondents

3. L.P.A Nos. 759 of 2016 (O&M)

Divisional Forest Officer (Territorial), Jhajjar & Anr. Petitioners

Vs.

Smt. Sumitra Devi & Anr. Respondents

4. L.P.A Nos. 765 of 2016 (O&M)

Divisional Forest Officer (Territorial), Jhajjar & Anr. Petitioners

Vs.

Sombir & Anr. Respondents

5. L.P.A Nos. 766 of 2016 (O&M)

Divisional Forest Officer (Territorial), Jhajjar & Anr. Petitioners

Vs.

Smt. Gindo Devi & Anr. Respondents

6. L.P.A Nos. 767 of 2016 (O&M)

Divisional Forest Officer (Territorial), Jhajjar & Anr. Petitioners

Vs.

Smt. Kanta & Anr. Respondents

7. L.P.A Nos. 768 of 2016 (O&M)

Divisional Forest Officer (Territorial), Jhajjar & Anr. Petitioners

Vs.

Smt. Bhanmati @ Bhani & Anr. Respondents

8. L.P.A Nos. 769 of 2016 (O&M)

Divisional Forest Officer (Territorial), Jhajjar & Anr. Petitioners

Vs.

Sh. Subh Ram & Anr. Respondents

9. L.P.A Nos. 772 of 2016 (O&M)

Divisional Forest Officer (Territorial), Jhajjar & Anr. Petitioners

Vs.

Smt. Sona Devi & Anr. Respondents

10. L.P.A Nos. 773 of 2016 (O&M)

Divisional Forest Officer (Territorial), Jhajjar & Anr. Petitioners

Vs.

Smt. Birmati Devi & Anr. Respondents

Date of Decision:-08.11.2016

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

Present: - Ms. Kirti Singh, DAG, Haryana,
for the appellants.

Mr. S.K.Daaria, Advocate, for respondent No.1
(in LPA Nos. 767 of 2016 and 772 of 2016)

Mr. Vijay Saini, Advocate, for the respondent
(in LPA No. 766 of 2016)

Mr. Sandeep Sehgal, Advocate, for the respondent
(in LPA No. 990 of 2016 and 769 of 2016)

Mr. Ajay Chaudhary, Advocate, for respondent No.1
(in LPA Nos. 757, 759, 765, 768 and 773 of 2016)

MAHESH GROVER, J.(ORAL)

C.M No. 2046-LPA of 2016 in LPA No.990 of 2016
C.M No. 1551-LPA of 2016 in LPA No.757 of 2016
C.M No. 1554-LPA of 2016 in LPA No.759 of 2016
C.M No. 1564-LPA of 2016 in LPA No.765 of 2016
C.M No. 1566-LPA of 2016 in LPA No.766 of 2016
C.M No. 1568-LPA of 2016 in LPA No.767 of 2016
C.M No. 1570-LPA of 2016 in LPA No.768 of 2016
C.M No. 1572-LPA of 2016 in LPA No.769 of 2016
C.M No. 1579-LPA of 2016 in LPA No.772 of 2016
C.M No. 1582-LPA of 2016 in LPA No.773 of 2016

For the reasons stated in the applications, the same are allowed.

Delay of 142 days (in LPA No.990 of 2016) and 138 days in all other cases
is condoned.

Main Appeals

By this order all the aforesaid appeals are being disposed of as
they involve same controversy.

Appellants have questioned the judgment of learned Single Judge

dated 21.10.2015. On 04.08.2016 we had passed the following order in
L.P.A No.990 of 2016:-

*“Present: Mr. Sudeep Mahajan, Addl.AG, Haryana
for the appellants.*

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*This appeal is directed against the judgment of the
learned Single Judge dated 21.10.2015.*

We may notice the facts as under :-

*The respondent No.1 (hereinafter known as 'the
workman) raised a demand on 19.10.2009 when his services
were terminated illegally without compliance of the provisions
of the Industrial Disputes Act, 1947 (hereinafter referred to as
'the Act'). The matter was referred to the Labour Court where
the issue of validity of termination of services of the workman
was framed and answered in affirmative to hold that there was
non-compliance of the provisions of Section 25-F of the Act
and consequentially the workman was held entitled to
reinstatement with continuity of service and 50% pack wages.
The workman had stated that he had worked from January
1997 to December 1998 and subsequently from January 1999
to December 2009 when his services were terminated without
notice.*

*The appellants disputed the claim but admitted that
the workman was employed on daily wages occasionally. The
details of the employment were, however, not given. The*

appellants also failed to produce the muster rolls from January 1999 to June 2009 even though the record was summoned by the workman. This singular failure of the management to produce the relevant record despite it being summoned by the workman is fatal to their plea of denial of employment to the workman. The Labour Court came to the conclusion that failure to produce the records was sufficient to draw an adverse conclusion against the appellants and granted reinstatement of service with continuity of service and 50% back wages.

In writ proceedings by the appellants the award was upheld which is now the cause of grievance in the present appeal when it is contended that at best the workman would be entitled to compensation and not reinstatement and back wages.

The facts suggest employment of the workman for as long as 10 years and, therefore, reinstatement in the given set of circumstances would largely be in order and in conformity with the various pronouncements of the Hon'ble Supreme Court where it has been observed that while considering the issue of reinstatement, period of service rendered by the workman would be a relevant consideration besides other factors. We would, therefore, not accept the plea of the appellants regarding questioning the order of

reinstatement.

However, we may reconsider the issue of back wages and for this limited purpose, we deem it appropriate to issue notice of motion to respondent No.1-workman for 08.11.2016.

In the meantime, it is mandated that the workman shall be reinstated in service within six weeks from today.

Notice re: condonation of delay also.

We have noticed from the affidavit filed by the appellant-State that the opinion of the Advocate General, Haryana was strictly against filing of the appeal although a contrary opinion was expressed by the Legal Remembrancer, Haryana. We would unhesitatingly observe here that to prevent filing of frivolous appeals, the Advocate General's opinion should largely be respected unless some reasons manifest themselves in the decision of the authority differing with it and, therefore, would expect the Advocate General to take up this issue in all earnestness with the officials of the State so that filing of frivolous appeals can be prevented and a litigation policy expounded by the State itself is respected.

A copy of this order be sent to the Advocate General, Haryana.”

Today when the matter came up for hearing, learned counsel for the appellant, on instructions from Satvir Singh, Deputy Superintendent,

O/o DFO, Jhajjar, fairly states that the entire judgment has been accepted and the back-wages have been released to the workmen. She has furnished the list of workmen and the dues given to them. Since we only issued notice to reconsider the grant of back-wages and noticing that entire back-wages have been paid in compliance of the impugned judgments, we are of the opinion that no cause survives in the present appeals, which are disposed of as having become infructuous.

The appeals are disposed of accordingly.

(MAHESH GROVER)
JUDGE

(SHEKHER DHAWAN)
JUDGE

November 08, 2016
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Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No