

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

LPA No.872 of 2016 (O&M)

Date of decision: 24.05.2016

Sushil Kumar

----Appellant

Versus

The Presiding Officer and another

----Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu**

**Present: Mr. Raj Kumar Garg, Advocate
for the appellant.**

HARINDER SINGH SIDHU, J.

This intra-Court appeal under Clause X of the Letters Patent has been filed against the order dated 06.08.2015 of the learned Single Judge, passed in CWP No.18726 of 2011 to the extent that relief of reinstatement along with continuity in service has not been granted to the appellant.

Along with the appeal, an application seeking condonation of delay of 248 days in filing the appeal has also been filed.

The appellant was initially appointed as Ward Attendant on contract basis for three months on 27.03.2000. The contract was extended from time to time by issuing fresh orders for contractual appointment for three months. On 24.03.2003 he was served one month's notice indicating that his services would be terminated w.e.f., 24.4.2003. It was stated that his

appointment was on contract basis only for three months. As per the conditions of appointment his services could be terminated without assigning any reason. Now due to sufficient regular employees available in the department, his services were no more required by the department.

The appellant raised an industrial dispute. The Labour Court vide award dated 05.09.2011 decided reference against the appellant holding that his service was purely on contract basis and his termination was justified. It was further held that the management was not required to comply with the provisions of Section 25-F of the Industrial Disputes Act, 1947.

Learned Single Judge held that the Labour Court had failed to take note of the fact that the appellant was handicapped, he had worked for a period of three years as Ward Attendant and there was no complaint of any kind against him. It was further held that the Labour Court should have taken note of the fact that he had completed 240 days in the relevant year and on all these considerations should have granted him compensation. Relying on the decision of Hon'ble the Supreme Court in **BSNL Vs. Bhurumal 2014 (2) SLR 128**, Learned Single Judge modified the award of the Labour Court and directed the management to pay a compensation of ₹2,25,000/- to the appellant.

Learned counsel for the appellant has argued that instead of compensation, the appellant ought to have been granted reinstatement in service along with continuity.

We find ourselves unable to agree with the Ld. Counsel.

Considering the totality of circumstances, the fact that the appellant was

appointed on contract basis for three months which contract had been periodically extended by issuing fresh orders of contractual appointment for three months each, the physical condition of the appellant and the total period for which he had worked, the Ld. Single Judge directed the payment of compensation. We do not find that this is a fit case for directing his reinstatement.

Accordingly, there is no merit in the appeal and the same is dismissed. Consequently, the application seeking condonation of delay in filing the appeal is also dismissed.

(RAJESH BINDAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

May 24, 2016
Atul