

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 258

Civil Revision No.605 of 2015 (O & M)
Date of Decision: February 27, 2017

Upender Singh

..... PETITIONER

VERSUS

Engineer-in-Chief, Public Health Engineering Department & another

..... RESPONDENTS

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

. . .

PRESENT: - Mr. Deepak Sonak, Advocate, for the petitioner.

Mr. P.S. Jangra, Additional Advocate General, Haryana.

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Jaspal Singh, J

1. Challenge in this revision petition is to order dated November 18, 2014 passed by the Civil Judge (Senior Division), Fatehabad, whereby execution petition has been disposed of being fully satisfied without being complied with award dated August 20, 1992 passed by the Industrial Tribunal –cum- Labour Court, Hisar (for short, ‘Tribunal’).

2. Concededly, award in favour of petitioner was passed on August 20, 1992, operative part of which reads as under:-

“11. In view of my findings on the above issue, the termination of service of the petitioner is held illegal. The same is hereby set-aside. The petitioner is reinstated in the same post forthwith, with benefit of continuity of service and other consequential benefits. He shall not be entitled to any back wages from 28.1.82 to 21.2.91. He shall be entitled to full back wages

with effect from 22.2.91. The reference is answered accordingly, with no order as to costs.”

3. Subsequent to passing of award, petitioner was allowed to join his duty on September 10, 1992. A specific objection was raised by the petitioner before the executing court that his services have not been regularised w.e.f. September 15, 1982 as per policy of Government, hence award could not be said to have been fully satisfied but that objection was dismissed vide impugned order dated November 18, 2014 passed by the Civil Judge (Senior Division), Fatehabad.

4. A glance at the operative of award passed by the Tribunal makes it crystal clear that petitioner had been ordered to be reinstated in the same post forthwith with benefit of continuity in service and other consequential benefits. Meaning thereby, he is entitled to be regularised w.e.f. September 15, 1982. Such a question came for hearing before Division Bench of this Court in case Radhey Sham & others vs. Haryana State Electronic Development Corporation Ltd. & another, 2003(3) RSJ 293. In that case, petitioners' services were terminated in 1982. Subsequently, the Tribunal ordered their reinstatement with full back wages and continuity of service. It was held that petitioner would be deemed to be in continuous service from the year 1992 till 1997 as they fully come within the parameters of Policies dated March 07, 1996 and March 18, 1996. They were held entitled to regularization w.e.f. February 01, 1992.

5. Adverting to the facts of the case in hand, vide Award dated August 20, 1992, petitioner was ordered to be reinstated in service with back wages, in pursuance of which, he joined the service on September 10, 1992. Here, it would be relevant to mention that the Civil Judge, while disposing of the execution application of petitioner has not considered the complete

directions issued by the Labour Court. Apart from the relief of reinstatement with continuity of service, the directions are also there for giving other consequential benefits to the petitioner. Meaning thereby, he was entitled to all benefits which have been granted to other similarly placed persons who were working at that time. Another employee namely Balbir Singh, who was junior to petitioner, has been regularised w.e.f. September 15, 1982 and petitioner has been deprived of the said benefit. It would not be out of place to mention here that respondents filed reply to the claim of the petitioner in execution before the Civil Judge (Senior Division), Fatehabad. Para 2 of reply (Annexure P-2) is relevant for disposal of instant petition which reads as under:-

“That the Hon’ble Labour Court vide award dated 20/08/1992 reinstated the petitioner on the same post with benefit of continuity of service and other consequential benefits. The Hon’ble Labour court further ordered that the petitioner shall not be entitled to any back wages from 23/01/1982 to 21/02/1991 and shall be entitled to full back wages w.e.f. 22/02/1991 till the date of award i.e. 20/08/1992. And the petitioner has paid full backwages as per award of labour court i.e. from 22/02/1991 to 20/08/1992. As regards the benefit continuity of service and other consequential benefits, this office has submitted the case of regularization of service w.e.f. 15/09/1982 of plaintiff to competent authority through proper channel vide this office memo no. 11590 dated 24/06/2014 (Annexure R1). As soon as the services of the petitioner regularised w.e.f. 15/09/1982 by the competent authority, all other consequential benefits will also release to him.”

6. In the light of what has been discussed above, this Court is of the considered view that impugned order dated November 18, 2014 passed by the Civil Judge (Senior Division), Fatehabad is not sustainable in the eyes of law and the same is set aside by way of acceptance of this petition. The executing court is directed to restore the execution application

and to decide the same in accordance with observations made in this judgment.

February 27, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No