

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

Date of decision: 07.03.2017

CWP No.11428 of 1995

M.D. University, Rohtak through its Registrar ...Petitioner

Vs.

The Presiding Officer, Industrial Tribunal -cum- ...Respondents
Labour Court, Rohtak & another

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Anurag Goyal & Mr. Amit Rao, Advocates,
for the petitioner.

Mr. Ramesh Hooda, Advocate,
for respondent No.2.

RAJIV NARAIN RAINA, J. (ORAL)

1. Heard learned counsel for the parties at some length.
2. The Labour Court found on the evidence available on record that the defense of the University built on the weak foundation of Section 2(o)(bb) of the Industrial Disputes Act, 1947 (for short 'the Act') not tenable in absence of a stipulation in the contract that the engagement would come to an end positively by effluxion of time. When that is so, then the question of compliance of safeguards in Section 25-F of the Act would immediately arise, which mandatory procedural provisions were not obeyed by the Management in effecting termination of service by denial of notice, one month's notice pay and retrenchment compensation and without assigning any reasons. It has been the long standing view of this Court starting from the Full Bench decision in Hari Palace, Ambala City Vs. The Presiding Officer, Labour Court, Ambala and another, (1979) 81 P.L.R. 720, that back-wages follow illegal termination unless there are reasons

necessitating departure. I find hardly any reason to withhold 50% back-wages granted by the Labour Court in its discretion when wisely exercised.

3. Though there was a stay on the Award, but learned counsel informs me that the workman was reinstated to service and is still in employed with the management but some disciplinary proceedings are pending initiated after reinstatement by the labour court. If there is an inquiry pending against the workman for misconduct, then the law will take its course, but it will not have any effect on the quality of the Award rendered on 01.02.1995.

4. Hence, I endorse the findings recorded by the Labour Court and would uphold its work as fair and equitable and one which is sound on facts and law. Consequently, the instant petition is found bereft of merit and is ordered to stand dismissed. The impugned Award does not suffer from any fundamental flaw or error apparent on the face of the record.

07.03.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>