

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12637 of 1996 (O&M)
Date of Decision:-01.08.2017.

Union of India

.....Petitioner

Versus

Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court,
Chandigarh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Namit Kumar, Advocate for the petitioner.

Mr. P.K. Goklaney, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (Oral)

Petitioner has questioned the award passed by the Labour Court dated 09.11.1994 (Annexure P-8).

2.) Respondent-workman was appointed as a daily wager (Mailman) on 16.06.1987 and worked up to 30.03.1988. Thereafter, once again he was appointed on 09.05.1988 to 16.08.1988. Thus respondent-workman raised an industrial dispute in the year 1991 and the same has been decided in favour of the respondent workman on 09.11.1994 to the extent that respondent be reinstated within one month from the publication of the award with 50% back wages and continuity of service. While ordering notice of motion, this Court was pleased to grant interim order.

Consequently, the workman has been paid wages under Section 17-B of the

Industrial Disputes Act, 1947 beyond the age of superannuation i.e. beyond 01.07.2010. The same was noticed on 10.03.2014. Consequently, interim order was modified to the extent that respondent-workman is not entitled for wages beyond 01.07.2010.

3.) Learned counsel for the petitioner submitted that respondent-workman has worked for about one year. Therefore, question of reinstatement with continuity of service and 50% backwages do not arise in view of the Supreme Court decision in **Bharat Sanchar Nigam Limited v. Bhurumal (2014) 7 SCC 177**. It was further submitted that in identical matter in the case of **Municipal Committee, Karnal Vs. Ramesh Chand and another 2016 LabLR513**, a compensation of ₹ 50,000/- has been awarded. Therefore, respondent-workman is not entitled for reinstatement and back wages.

4.) Per contra, learned counsel for the respondent-workman submitted that insofar as second spell of appointment is concerned, it is in accordance with law and respondent-workman has completed 240 days. Thus, there is a violation of Section 25-F of the Industrial Disputes Act, 1947 and no infirmity in the award passed by the Labour Court. It was further submitted that respondent has attained 60 years of age on 12.06.2010. Therefore, question of reinstatement do not arise and respondent-workman is entitled for 50% back wages as well as continuity of service.

5.) Heard learned counsel for the parties.

6.) Having regard to the fact that the respondent-workman was appointed on daily wage basis on 16.06.1987 and worked up to 30.03.1988

and he was re-appointed on 09.05.1988 and worked up to 06.08.1988.

Thus, he has rendered for about 1 year's of service in the petitioner's Department. In view of these facts and circumstances, respondent-workman is not entitled to reinstatement with continuity of service along with 50% back wages as awarded by the Labour Court in view of Supreme Court decision passed in **Bharat Sanchar Nigam Limited v. Bhurumal (2014) 7 SCC 177.** Petitioners have paid wages under Section 17-B of the Industrial Disputes Act, 1947 beyond 60 years age attained by the respondent-workman i.e. from 01.07.2010 to 30.09.2013.

7.) In view of the above facts and circumstances, the petitioners are directed to not to recover the excess payment made to the respondent-workman and workman is entitled for compensation of ₹ 50,000/- along with interest @ 6% per annum w.e.f. the date of award dated 09.11.1994. Payment shall be made within a period of 4 months from today.

Accordingly, petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

August 01, 2017.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.