

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

CWP-13249-1996

Date of decision: 25.05.2017

Paramjit Singh

.... Petitioner

VS.

Pepsu Road Transport Corporation, Patiala and anr.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Petitioner in person.

Mr. Raman Mahajan, Advocate
for the respondents.

Rajiv Narain Raina, J.(Oral)

1. The petitioner is present in Court and confirms Mr. Mahajan's statement that he has been taken back in service and his services have been regularised.
2. This closes the first chapter but opens another regarding entitlement to back wages.
3. The petitioner assails the award of the Labour Court dated February 22, 1995, which grants him reinstatement with continuity of service but without back wages. The reasons which have weighed with the Judge for denying back wages are irrelevant considerations and to witness the reasons assigned in the Relief Para. 9 the same are reproduced below:

“In view of the findings on issue No.2 above, I hold that the workman is entitled to reinstatement with continuity of service but without backwages he himself admitted in his cross-examination that he is married having three children and his month earning is about ₹ 800/- and that he meets this expenses by doing some labour work. It means that the workman remained

gainfully employed during the period of the forced idleness. The workman is directed to report for duty after thirty days of the publication of the award. The reference stands answered accordingly. No order as to costs."

4. These reasons can hardly be called legal reasoning. Matrimonial status was irrelevant and immaterial to the cause. If there were a family of five and the argument is taken further, there was greater need to award back wages. Gainful employment means workman in an employment relationship similar to the one from which the removal took place. Besides, during forced idleness person has to work somewhere to earn and sustain himself and his family. The amounts should be treated as solatium and ignored in moulding relief. Otherwise it would amount to punishment and give a handle to the employer to avoid liability. Hence, the reasoning is faulty and has to be set aside.

5. The petitioner was retrenched from service on May 01, 1986. The Division Bench of this Court while issuing notice of motion crystallized the issue on August 29, 1996 the only point which requires adjudication and is reproduced as under:

"Whether the petitioner should be paid difference between ₹ 800/- and the salary payable to daily-wagers working under the Government of Punjab between the date of demand and the date of award?"

6. The question raised in the motion order is answered in favour of the petitioner. He is held entitled to difference between ₹ 800/- and the salary payable to the daily-wager from the date of demand notice not only till the date of the award but till reinstatement, to cure injustice done to the petitioner.

7. Accordingly, this petition is allowed and the award with respect to back wages is set aside. The amount of back wages is directed to be paid within a period of two months from the date of receipt of certified copy of the order. In case of default, the amount in default from the date payable i.e. on expiry of the period fixed for payment will carry interest at the rate of 9% per annum till payment.

25.05.2017
sonia

(RAJIV NARAIN RAINA)
JUDGE

1. Whether speaking?
2. Whether reportable?

Yes
No