

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11922 of 1999

Date of Decision: 15.05.2017

State of Punjab and others

... Petitioners

Versus

Shri Bikkar Singh and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. B.M. Vinayak, DAG, Punjab.

Mr. B.S. Sidhu, Advocate,
for respondent No.1.

RAJIV NARAIN RAINA, J.

1. When notice of motion was issued on August 25, 1999 the operation of the award was stayed in this petition filed by the State of Punjab against the award of the Labour Court dated February 11, 1999 made by the Presiding Officer, Labour Court, Bathinda. The Labour Court has held the claimant respondent entitled to reinstatement with continuity of service and back wages w.e.f. March 21, 1994, that is, from the date of raising dispute by demand notice. There is no doubt of facts that the ingredients of the Industrial Disputes Act, 1947 ("1947 Act") stand satisfied in favour of the workman.

2. Though the award cannot be faulted on its technicalities but the period of service rendered as a Tracer from January 24, 1988 to March 01, 1990 shies the Court away from upholding the award by its unmerited relief which ought not to flow naturally or automatically on a post in the department of the Government being the Project-Ranjit Sagar Dam,

Irrigation Department, Drainage Construction Circle, Ferozepur. The post of Tracer is a public post and appointment thereon was not by regular mode by competition and open merit. The petitioner may qualify as “workman” by definition but his entry into service on daily wage basis cannot be ignored and it would I think be rather injudicious to reinstate the petitioner to a Class-III post even in the original status as it would involve multiple issues which may result in administrative chaos and give rise to multifarious service claims which may ultimately impinge on third party rights in the petitioning department. The appointment was on temporary basis. It was extended from time to time and the respondent was relieved for want of sanction from the appropriate authority. An award should not be a reward.

3. The management asserted that there was neither any work left nor any post lying vacant in the department to adjust the claim. When the award was made the law was differently viewed and change was ushered in by the Supreme Court speaking in Constitution Bench in Secretary, State of Karnataka vs. Uma Devi, (2006) 4 SCC 1. New ground was broken in the judgment and the principles of reinstatement began to be looked at differently from the point of view of the High Courts. The superstructure was changed with the changing judicial thought. The principles in Hindustan Tin Works Pvt. Ltd. v. Employees of Hindustan Tin Works Pvt. Ltd., (1979) 2 SCC 80 began to be applied judiciously and realistically depending on the facts of each case.

4. I have heard Mr. B.M. Vinayak, DAG, Punjab for the State and Mr. B.S. Sidhu, learned counsel for the respondent 1 and have also perused the paper-book with their assistance. Applying the law and the quantum of

compensation awarded in Assistant Engineer, Rajasthan Dev. Corp. & Anr vs. Gitam Singh, (2013) 5 SCC 136, I would cause interference with the impugned award when it grants reinstatement and continuity of service and full back wages and instead restrict the claim to payment of compensation in lieu of reinstatement. In my considered opinion, for two years of service rendered, the ends of justice will be adequately met if compensation of ₹2 lakh is paid by the management to the workman as a lump-sum payment to put an end to the dispute.

5. The payment of compensation is justified by reason of illegal termination. Whether there was sanction or not the authorities in Ranjit Sagar Dam ought to have complied with the procedure in Section 25-F of the 1947 Act the breach of which mandatory provision must be borne by the State recoverable from those erring officers who failed in their duty to comply with the statutory enactment.

6. Accordingly, this petition is partially allowed. The award is set aside. Relief is modified limiting it to the payment of the aforesaid compensation as full and final parting of ways.

7. Payments be made within 2 months from the date of the receipt of certified copy of this order.

(RAJIV NARAIN RAINA)
JUDGE

15.05.2017
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Whether speaking/reasoned Yes

Whether reportable No