

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

CWP No.17090 of 1996

Date of Decision:24.11.2017

Executive Engineer, U.B.D.C., Gurdaspur Division, Gurdaspur

... Petitioner

Vs.

Dev Raj (since deceased through Lrs) and another

... Respondents

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

Present : Mr. B.S. Sewak, Addl. A.G. Punjab.

Mr. I.D. Singla, Advocate for respondent No.1.

P.B. BAJANTHRI J. (Oral)

On 10.10.2017, following order was passed:

“After hearing for some time, it was noticed from the award that Labour Court proceeded to pass award in favour of respondent No.1-workman to the extent that Supreme Court permitted similarly situated persons like respondent No.1-workman to re-open the reference. It is to be noted that respondent no.1-workman suffered an award dated 10.10.1984 before the Labour Court and further Miscellaneous Application No.36 of 1990 was also rejected on 8.10.1991. Undisputedly, respondent No.1-workman has accepted the decision dated 10.10.1984 and 8.10.1991 (Annexure P-2 and P-3). In the absence of challenging the above orders in writ petition, he has resorted for second reference and pursue the matter before the Industrial Tribunal. Therefore, respondent No.1-workman is hereby directed to produce aforesaid decision of the Supreme Court which has been quoted in para-7 of the Labour Court award dated 27.02.1996 (Annexure P-1).

List this matter on 13.11.2017. ”

Today, learned counsel for respondent No.1-workman

produced a decision passed in *Des Raj and others* v. *State of Punjab and others*; 1988 (1) CLR 621. Perusal of the decision, no doubt Irrigation Department has been held to be an industry. However, in the present case as long as petitioner failed to challenge decision dated 10.10.1984 and 8.10.1991 (Annexure P-2 and P-3), second reference is not maintainable. Accordingly, award passed by the Labour Court dated 27.2.1996 (Annexure P-1) insofar as extending the benefit of reinstatement with continuity of service and full back wages is not maintainable. However, during pendency of this petition, petitioner is stated to have been taken back to duty and while he was in service, he is stated to have died. Therefore, insofar as reinstatement of the deceased workman and continuity of service is not disturbed. Grant of full back wages from the date of termination is set aside.

Accordingly, petition stands allowed in part.

24.11.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**