

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

CWP No.18721 of 1996 (O&M)

Date of decision: 27.03.2017

The District Rural Development Agency, Hisar

... Petitioner

Vs.

Presiding Officer, Industrial Tribunal-cum-
labour Court, Hisar & anr.

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Mukesh Verma, Advocate for
Mr. Ashish Gupta, Adocate
for the petitioner.

Ms Alisha Arora, Advocate for
Ms. Anju Arora, Advocate
for respondent No.2.

RAJIV NARAIN RAINA, J. (ORAL)

The impugned award dated 17.05.1996 in reference No.107/1991 is in challenge by the District Rural Development Agency (DRDA), Hisar respecting the finding of the labour court that the retrenchment amounted to deemed termination effected from November 1990 against the respondent. He was employed as a casual labourer, working as a tractor driver on daily wages at the rates fixed by the Deputy Commissioner. The operation of the award was stayed by the division bench of this Court in the present writ petition on 05.12.1996. The case was admitted with interim stay to continue, issued on 18.09.1997 which orders are in operation till the present.

The Labour Court declared the termination illegal after

returning a finding that the workman had not abandoned the job himself. The respondent was returned to the same post with the benefit of continuity of service and other consequential benefits with back wages payable from the date of demand notice i.e. 12.03.1991 onwards.

The stay has operated for the last 21 years and at this distance of time hardly any useful purpose would be served in lifting the stay on the award as far as reinstatement is concerned and instead it would be more appropriate to convert the relief into compensation in lieu of reinstatement.

To deny the relief altogether to the workman may cause miscarriage of justice and therefore, even in the absence of the representation by the respondent-workman, this Court deems it fit and expedient to mould the relief to bring compensation to the pocket of the respondent after upholding the reinstatement caused by violation of Section 25-F of the Industrial Disputes Act, 1947 as admittedly proper procedure was not followed. All the other jurisdictional facts were also satisfied that the workman had worked for 240 days, the activity was an industry and the dispute under Section 2A industrial in nature.

However, the documentary period of service was from 07.10.1989 to 11.11.1990, which is about 13 months, which is too brief to award monetary compensation over any ₹ 80,000/- as approved by the Supreme Court in a case of short stint of service by a daily wager in *Assistant Engineer, Rajasthan Dev. Corp. & anr. vs. Gitam Singh, (2013) 5 SCC 136* where the Supreme Court award ₹ 50,000/- for 240 days of service.

Accordingly, this writ petition is partly allowed to the extent that the reinstatement is refused though illegal but at the same time is partly allowed insofar as compensation is concerned and to that extent, the impugned award shall stand modified. This order will remain executable in terms of Section 11(9) of the Industrial Disputes Act, 1947. In case, the payment is not made by the petitioner to the respondent-workman within a period of 3 months from the date of receipt of certified copy of this order, it will carry interest @ 9% per annum till its realization. Copy of the order be sent to the respondent workman and to the Labour Court, Hisar.

27.03.2017

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**[RAJIV NARAIN RAINA]
JUDGE***1. Whether speaking/reasoned:**Yes**2. Whether Reportable:**No*