

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

CWP No.10546 of 2004 (O&M)

Date of decision: 21.04.2017

Messers Yamuna Gases and Chemical Limited

.... Petitioner

VS

Satnam Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Sukhmani Tiwana, Advocate
for the petitioner.

Mr. Som Nath Saini, Advocate
for respondent No.1.

RAJIV NARAIN RAINA, J. (ORAL)

Learned counsel for the petitioner submits that no monetary settlement is possible and the case has to be decided on merits.

Mr. Saini states that it is not disputed that this case is covered by the ratio of decision rendered in many writ petitions where similarly situated workman had obtained relief.

The reasons by which this writ petition deserves to be dismissed are simple.

Mr. Saini submits that proceedings in the application filed under Section 33 C (2) Industrial Disputes Act, 1947 were based on execution of an earlier award of the labour Court award dated 22.01.1991 passed under Section 10(1) (c) of the Act. That award was never challenged by the petitioner company and attained finality. The money due under the award is a right to money and a natural consequence, which has been rightly

computed by the labour Court in its order dated 16.01.2002.

The Division Bench while disposing of the writ petition bearing CWP No.13517 of 2004 by order dated 31.03.2005 had observed against the company that effort of the petitioner to deprive the workman of his duties was entirely unfair. With these observations, the writ petition by a detailed order was dismissed.

Having regard to principles of parity, the present case deserves to meet the same fate as the other similar cases involving seven workmen. The respondent was the 8th of them left behind in the volume of work and the business of the day.

Therefore, the writ petition is dismissed.

However, before parting with the case the argument raised by Ms. Sukhmani Tiwana, learned counsel for the petitioner deserves to be noticed. She relies on an order passed by me in *The Punjab State Cooperative Bank Ltd. vs. Presiding Officer, Labour Court, Patiala and others*, 2016(1) PLR 122. This was a case where the workman had the benefit of last drawn wages under Section 17-B of the Act paid over a very long time as the writ was pending for decades and probably even beyond the age of superannuation, and therefore, I thought that the financial involvement should be compensatory in nature and non-recoverable and therefore, payments under Section 17-B deserve to represent compensation in lieu of reinstatement and the case was thus brought to point which it appeared was just to both sides ruling that no money at all should be paid to the respondent other than what he has already received under Section 17-B

to represent the compensation package itself while denying reinstatement.

I am afraid, to accept this argument in this case would cause manifest injustice where there is in existence an award of the labour Court, which became final and binding in granting reinstatement, continuity of service and full back wages, would run counter to principles of equality. All eight workers have a right to the same relief. Hence, I would reject the contention.

For the foregoing reasons, the writ petition deserves to be dismissed. The petitioner would pay the amount due under the order dated 16.01.2002 within a period of three months from the date of receipt of a certified copy of this order, either from the Court or the petitioner, whichever is earlier. This direction is necessary in view of long delay in implementation of the order when read with the observations of the Division Bench of this Court in CWP No.13517 of 2004.

Accordingly, the writ petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

21.04.2017

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1. Whether speaking/non-speaking?	Yes
2. Whether reportable/non-reportable?	No