

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-2059-1998 (O&M)
Date of Decision:-15.09.2017.

Phool Singh

.....Petitioner

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Faridabad
and another

.....Respondents

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

Present: Mr. Samrat Malik, Advocate for the petitioner.

Mr. R.N. Lohan, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has assailed the award passed by the Labour Court dated 19.4.1996 (Annexure P-4).

Petitioner was appointed as a Dispenser on 24.7.1990 with the respondent-Management on probation. His services were terminated on 09.07.1991 (Annexure P-2) on the ground that his services “*no longer required*”. After dispensing the services of the petitioner, respondent-Management are stated to have engaged another person on daily wage basis which is evident from the record. The respondent-Management's stand before the Labour Court is that petitioner's work was not satisfactory as is evident from para 11, whereas, in para 14, Labour Court has recorded that

respondent-Management's contention to the extent that petitioner was on probation and his services have been terminated as no longer required. There is an inconsistent stand on behalf of the respondent-Management insofar as petitioner's termination. The Labour Court proceeded to pass award in favour of the respondent-Management despite the contradictory statement taken by the respondent-Management.

The respondent-Management noticed that petitioner's work was not satisfactory. If such a word is used in the order of termination, in that event respondent-Management have to hold an inquiry. Therefore, the word “no longer required” has been used in the order of termination.

Heard learned counsel for the parties.

For the purpose of deciding the present petition, it is necessary to extract the order of termination dated 9.7.1991 which reads as under:-

“The Palwal Coop. Sugar Mills Ltd., Palwal, Distt. Faridabad (Haryana).

Ref. No.SMP/Estt/91-92/3147

Dated:9.7.1991

OFFICE ORDER

As per para 5 of the appointment letter No.SMP/2984 dated 24.8.1990 the services of Shri Phool Singh, Dispenser are hereby terminated and no longer required. A cheque No.188344 dated 9.7.1991 for Rs.385/- is enclosed towards one week's notice period salary.

Sd/-

Managing Director

To:

*Shri Phool Singh s/o
Shri Ram Kishan,
O/O Asha Medical Store,
G.T. Road, Palwal.”*

From perusal of order of termination, it is specific that the

petitioner's services were terminated only on the sole ground that “no longer required”. Whereas, the respondent-Management's stand before the Labour Court is that petitioner's work was not satisfactory which is recorded by the Labour Court. Further respondent-Management have not disputed that after termination of the petitioner they have engaged another person on daily wage basis against the post of Dispenser. In view of the facts and circumstances, Labour Court erred in not appreciating the fact that petitioner's services have been dispensed with reference to unsatisfactory work and so also engaging a daily wagger against the post of Dispenser. Hence, passing award in favour of the respondent-Management would be arbitrary and illegal. Accordingly, Labour Court award dated 19.4.1996 (Annexure P-4) is set aside. Since the petitioner is out of service from 09.07.1991 and the fact that he has served for about 1 year with the respondent-Management, it is not appropriate to direct the respondent-Management to reinstate the petitioner with back wages, continuity of service etc. In view of the Apex Court decision in **Bharat Sanchar Nigam Limited v. Bhurumal (2014) 7 SCC 177**, the respondent-Management are hereby directed to pay compensation of ₹ 5,00,000/- to the petitioner within a period of 4 months from today, for the reasons that he was regularly appointed against the post of Dispenser and if his work was unsatisfactory, he should have been warned or disciplinary proceedings should have been initiated. Dispensation of regular employee on the score that no longer required and engaging a daily wagger in the petitioner place amounts to a farce proceedings. That apart petitioner is before the Court since 1991. If the respondent-Management fails to pay the compensation within the stipulated period, petitioner is entitled to interest @ 6% per annum from

today.

With the above observations, petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

September 15, 2017.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.