

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.743 of 1996
Date of Decision: 3.3.2017

Jaswinder Singh

... Petitioner

Versus

Presiding Officer, Labour Court Patiala and and others

... Respondents

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

Present: Mr.Y.M.Bhagirath, Advocate for the petitioner

Mr.P.S.Bajwa, Addl.A.G., Punjab
for respondents no.2 and 3

RAJIV NARAIN RAINA, J. (Oral)

1. While acting under Article 226 of the Constitution of India it is not for this Court to substitute opinion in a matter of discretion exercised by the Presiding Officer, Labour Court, Patiala in its award dated 9th August, 1994 declining back-wages, but awarding reinstatement with continuity of service. The Labour Court has rested its discretion on and denied back-wages for two valid reasons; (i) that the workman made no effort to seek re-employment anywhere else during the litigation period and (ii) that he was married and had two children whom he was supporting and therefore, the Labour Court drew an inference that the workman must have been gainfully employed during the period of alleged forced idleness. Discretion exercised judicially is not open to correction in writ proceedings where judicial review is restricted to the parameters applicable to Tribunals as explained in Syed Yakooob v. K.S. Radhakrishnan AIR 1964 SC 477. I find no error apparent on

the Labour Court. In any case, back-wages do not follow automatically on declaration of the termination order as illegal and void (See Asstt. Engineer, Rajasthan Development Corporation and Another vs. Gitam Singh (2013) 5 SCC 136). There are, however, exceptions to the general rule as culled out by the courts from time to time such as in the leading case from the Supreme Court in Hindustan Tin Works Pvt. Ltd. v. Employees of Hindustan Tin Works Pvt. Ltd., (1979) 2 SCC 80 but those principles are inapplicable in the facts and circumstances in the instant case for good and sufficient cause and reasons assigned by the labour court.

2. In view of the above, I find no merit in this petition which is accordingly dismissed.

(RAJIV NARAIN RAINA)
JUDGE

3.3.2017
MFK

Whether speaking/reasoned

Yes

Whether Reportable

No