

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.744 of 1996
Date of Decision: 3.3.2017

Executive Engineer, RSD Excavation Division, Shahpurkandi

... Petitioner

Versus

Jagir Singh and another

... Respondents

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

Present: Mr.P.S.Bajwa, Addl.A.G., Punjab for the petitioner
None for the respondent

RAJIV NARAIN RAINA, J. (Oral)

1. Notice of motion was issued in this case on 16th January, 1996 and stay qua recovery of back wages was ordered ad interim. The writ petition was admitted on 7th March, 1996 and interim stay was ordered to be continued. Despite service, no one has appeared for respondent-workman since the inception. It is so recorded in the order dated 7th March, 1996 passed by the Division Bench. I assume that reinstatement must have been given effect to since there was no stay. No one appeared even before the Lok Adalat on 6th December, 2016 to try and settle the dispute qua back wages. However, on information received from Mr.Karamjit Singh, SDO, Ranjeet Sagar Dam, Shahpur Kandi, appearing for the department before the Lok Adalat that the respondent-workman has since died. His LRs have not been brought on record for the obvious reason that the workman remained unserved.

2. Mr.Bajwa, learned Addl.Advocate General, Punjab draws the attention of this Court to the fact that the services of the respondent-

workman were utilized between 6th April, 1982 to 18th August, 1983 making the total span of service of not more than one year and four months. He was a daily wager. It is further pointed out that the demand notice was served by the workman on 27th April, 1987 raising an industrial dispute which was ultimately referred to the Labour Court, Gurdaspur. The Labour Court has answered the reference in favour of the workman and awarded reinstatement with full back-wages which appears to be excessive exercise of jurisdiction and discretion looking to the fact that the employment was for a short span of time and the industrial dispute was raised after delay of four years. Though there is no limitation provided under Section 10 (1) (c) of the Industrial Disputes Act, 1947, but belated approach in seeking remedy is to be viewed as laches even in industrial jurisprudence. The Labour Court has moulded the relief and restricted full back-wages from the date of demand notice in its award dated 12th May, 1995 in Reference No.134/88 by applying the law laid down in Ranjit Singh vs. The General Manager and others 1991 (1) RSJ 793. However, in Hari Palace, Ambala City vs. The Presiding Officer, Labour Court & another, *ILR 1979 (P&H) 243* it has been held that reinstatement normally leads to full back-wages unless there are reasons necessitating departure. That law holds good, but has received some cuts in subsequent cases as exceptions to the ordinary principle indicated in Hindustan Tin Works Pvt. Ltd. v. Employees of Hindustan Tin Works Pvt. Ltd., (1979) 2 SCC 80 that reinstatement will not bring back-wages automatically and a host of factors would have to be taken into consideration and especially, I would say that in the case of public employment under the State, where delay in seeking legal remedies can be fatal in awarding reinstatement, continuity and back-wages where government may have

workman and things like that. Keeping all those factors in view, I do not think that it will be appropriate to uphold the part of the award of the Labour Court which grants full back-wages from the date of demand notice till reinstatement. To that extent, the award is modified by setting aside the impugned part of the award. However, I find no infirmity in the award qua reinstatement and grant of continuity of service.

3. Accordingly, this petition is partly allowed to the extent that the back-wages stand reduced to 25% only to serve the ends of justice holding that 25% of back-wages will be recoverable by the L.Rs of the respondent-workman from the management and to this end, a copy of this order be remitted by the Registry to the office of Advocate General, Punjab for onward transmission to the Ranjit Sagar Dam to find out the whereabouts of LR's of the deceased workman so that they may take steps accordingly and in case found and relationship established by lawful means then the money due be handed over to them after determining the amount and completion of necessary formalities including demanding a succession certificate or as per rules applicable.

4. With the above directions/observations, this petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

3.3.2017
MFK

Whether speaking/reasoned

Yes

Whether Reportable

No