

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

CWP No. 9143 of 1996
Date of Decision: 8.5.2017

Municipal Corporation, Ludhiana

... Petitioner

Versus

Presiding Officer Labour Court, Ludhiana and Anr.

... Respondents

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

Present: Mr.Parambir Singh, Advocate and
Mr.Ashok Bazaz, Advocate for the petitioner

Mr.Sarvan Sehgal, Advocate for respondent no.2

RAJIV NARAIN RAINA, J. (Oral)

1. I have heard learned counsel for the parties for final disposal of the case.

2. The Labour Court has denied reinstatement to a Municipal Post where the 2nd respondent was appointed as ANM (Auxiliary Nurse Midwife) against a vacant post of Lady Health Visitor. Further extension of sanction for the post of ANM was not accorded by the Government and the Municipal Corporation, Ludhiana was bound by the direction of the State Government. As a result, the 2nd respondent was retrenched from service. However, she was not paid retrenchment compensation which was action taken in violation of the conditions precedent in Section 25F of the Industrial Disputes Act, 1947. Admittedly, there was non-compliance of the provisions which were mandatory in nature and therefore, the termination was held illegal. Even though the termination was illegal, reinstatement to service would not be granted mechanically because there were genuine reasons necessitating departure, since the life of the post had expired.

3. The Labour Court, Ludhiana moulded the relief by awarding compensation of full back wages in lieu of reinstatement. The respondent-workman was held entitled to full wages from the date of termination till the date of award and a sum of money representing what would have been the amount of retrenchment compensation [fifteen days of average wages for every year of completed service], had not been paid in time on the date of termination. So the Labour Court moulded the relief in its discretion. It is not for the writ court in proceedings under Article 226/227 of the Constitution of India to substitute opinion of the Labour Court which powers are supervisory in nature and not appellate. I would, therefore, find no legal infirmity or perversity in the award passed by the Labour Court sufficient to warrant interference in writ proceedings.

4. Accordingly, this petition is found without substance and is dismissed. The amount under the award shall be calculated and paid to the 2nd respondent within three months from the date of receipt of a certified copy of this order, either from this Court or from the workman whichever is earlier. In case of default, the amount in default will carry interest at the rate of 9% per annum till payment.

8.5.2017
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No