

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

Date of decision: 08.05.2017

CWP No.9942 of 1996

M/s Sanjiwan Research Laboratories

...Petitioner

Vs.

The Presiding Officer, Industrial Tribunal -cum- Labour Court, Rohtak &
another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Raman B. Garg, Advocate, for the petitioner.

RAJIV NARAIN RAINA, J.

The period of documented service in this labour matter is from February 08, 1992 to February 26, 1993, which is far too brief to consider reinstatement to service in favour of the second respondent. The petitioner was a sole proprietorship firm at the relevant time. The second respondent was appointed as Helper (unskilled labourer) on daily wages @ ₹35/- per day. The petitioner did not find his services during the association satisfactory and discontinued him from service on February 26, 1993.

The Presiding Officer, Industrial Tribunal -cum- Labour Court, Rohtak vide award dated February 12, 1996 has held the workman 'entitled to the job' with continuity of service and with full back wages. The award was stayed by the Division Bench of this Court on July 15, 1996 and the case was admitted to regular hearing. Service of notice on the second respondent could not be effected, as certified by the office. The notices sent

were returned with the report 'not residing at the given address', as is recorded in the order passed by the Lok Adalat on October 25, 2016. It was given out on December 13, 2016 before the Lok Adalat that the petitioner was not aware of the fresh address of the second respondent and at the same time recording that there is no possibility of striking a compromise in the Lok Adalat. That is how the case has been returned to Court for a decision on merits.

I have heard Mr. Raman B. Garg, learned counsel appearing for the petitioner and largely agree with him that this is not a case for reinstatement or full back wages. However, the law in the Industrial Disputes Act, 1947 was breached by non-compliance of the protections in Section 25F of the Act. The Labour Court ruminated that if the work and conduct of the second respondent was not assessed as satisfactory in the brief period of service, then he was not put to a domestic trial to establish his misconduct. On both counts, the Labour Court has held the termination to be illegal and I have no reason to disagree with the same. But what relief is to be granted is a mixed question of law and fact. Could it be that the second respondent though remaining still unserved with the summons, is not entitled to any relief whatsoever? I think not. Granting no relief at all may not be just and proper for breach of mandatory law. Would compensation in terms of money by denying reinstatement not serve the ends of justice or such an order be open to criticism? In view of settled legal position that if reinstatement is not to be granted automatically, then some compensation in lieu of reinstatement would be justified by moulding the relief. In quantification of compensation in lieu of reinstatement, this Court is to follow broadly the precedents on quantum. For one year service, the range could be between ₹50,000/- to ₹2,00,000/-. In Assistant Engineer, Rajasthan

Development Corporation & another Vs. Gitam Singh, (2013) 5 SCC 136, Their Lordships of the Supreme Court awarded ₹50,000/- as compensation for eight months' of service. Guided by that figure, I should think that compensation in a sum of ₹1 Lakh as lump sum compensation would be fair and equitable in full and final settlement of the dispute. This would secure the ends of justice and avoid a miscarriage of it.

Consequently, the writ petition is partially allowed. The award is set aside on both reinstatement and back wages and instead is modified to bring the above sum of money to the second respondent as compensation.

Since the second respondent would not know of this order, the petitioner is directed to deposit a sum of ₹1 Lakh with the learned Registrar General of this Court to be kept in fixed deposit in the Bank within a period of three weeks from the date of receipt of certified copy of this order, so that as and when he gains knowledge of its passing he may approach the registry of the High Court for release of the awarded amount with interest accrued in his favour.

It may be noted that as per papers on file Ram Singh was aged about 38 years when his deposition was recorded by the Labour Court on 28.07.1994. Till such time as the second respondent knows of the order, its implementation is ordered to be kept alive.

The District Administration, Sonapat is directed to circulate a notice through its Patwari of "Nai Basti, Bandepur (Sonapat)" and "Banyapur Khurd (on Old D.C.Road), Sonapat" that Ram Singh son of Sobh Ram is entitled to a sum of ₹1 lakh under the orders of this Court passed in the present CWP No.9942 of 1996 titled 'M/s Sanjiwan Research Laboratories Vs. The Presiding Officer, Industrial Tribunal -cum- Labour Court, Rohtak & another' decided today on 08.05.2017.

A copy of this order be also sent to Mr. Atma Ram Sharma, Authorised Representative of second respondent Ram Singh son of Sobh Ram claimant before the Labour Court, at his residential address i.e. New Bandeypur Colony, Sonapat – 131001 to make effort to inform the beneficiary of this order.

08.05.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*