

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

CWP No.11901 of 2003 (O&M)

Date of Decision:18.09.2017

Engineers India Limited

... Petitioner

Vs.

Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon and
another

... Respondents

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

Present : Mr. P.K. Mutneja, Advocate for the petitioner.

Ms. Abha Rathore, Advocate for respondent No.2.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has assailed the award passed by the Labour Court dated 20.5.2003 (Annexure P-14).

While admitting the petition, it was ordered that recovery of back wages will remain stayed. In view of this, respondent No.2-workman has been taken back to duty to the extent of implementing award in part in the year 2003 itself.

Now question for consideration is whether respondent No.2-workman is entitled for 75% back wages as ordered by the Labour Court or not?

Respondent No.2-workman has pleaded before the Labour Court that he is entitled for reinstatement alongwith back wages. The petitioner has not raised any objection in this regard. That apart, even before this Court, petitioner has not produced any material to show that respondent No.2-workman is not entitled for 75% back wages by producing necessary material that workman was gainfully employed.

In view of these facts and circumstances, award passed by the

Labour Court dated 20.5.2003 is modified to that extent that respondent No.2-workman is entitled for 50% back wages.

Accordingly, petition stands allowed in part.

At this stage, learned counsel for the petitioner submitted that respondent No.2-workman has not stated that he is not gainfully employed from the date of termination till reinstatement. On the other hand, petitioner has not produced any material to show that respondent No.2-workman has gainfully employed. Not only that before the Labour Court when respondent No.2-workman has specifically claimed that he is entitled to reinstatement alongwith back wages for which petitioner has not filed any objection. Hence, this contention of the learned counsel for the petitioner is hereby rejected.

Learned counsel for the petitioner further submitted that respondent No.2-workman has not completed 240 days. Therefore, he is not entitled for reinstatement. This Court while admitting the petition passed the following order on 31.07.2003:

“Admitted.

To be heard within one year.

Recovery of back wages alone will remain stayed.”

If at all the petitioner is aggrieved in respect of other than back wages, he had remedy either to file application for recalling the admitted order or he had remedy of appeal before the Supreme Court which has not been availed by the petitioner. Hence, this contention of the petitioner is also hereby rejected.

18.09.2017

rajeev

Whether speaking/reasoned

Yes/No

(P.B. Bajanthri)

Judge

Whether reportable

Yes/No