

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

927

**CWP-66-2004 (O&M)
Date of decision:01.12.2017**

Balwan Singh

....Petitioner

Versus

The Presiding Officer, Labour Court, Ambala and others

.... Respondents

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

Present: Mr. Anil Malik, Advocate for the petitioner.

Mr. Rajesh Gaur, Addl. A.G. Haryana with
Mr. Siddharth Sanwaria, DAG, Haryana.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has assailed award passed by the Labour Court dated 12.12.2002 (Annexure P1)

2. Petitioner amongst others approached this court by filing writ petition seeking regulaization of their service having regard to the date of entry into service in the month of August, 1985. CWP No. 7992 of 1987 was admitted and it was pending consideration. On 30.09.1987, petitioner and others who were petitioners in CWP No. 7992 of 1987 their services

were terminated. Thus, petitioner and others amended their writ petition no. 7992 of 1987 while challenging the order of termination. On 04.02.1999, petitioner withdrawn his name from CWP No. 7992 of 1987 seeking liberty to raise industrial dispute. Accordingly, he has raised industrial dispute on 17.03.1999. During pendency of the industrial dispute, before the labour court the official respondents reinstated such of those petitioners in CWP No. 7992 of 1987 except petitioner herein. Consequently, on 06.10.2004 this court has held that CWP No. 7992 of 1987 has become infructuous (Annexure P3) whereas the petitioner's dispute was decided by the Labour court on 12.12.2002 to the extent that order of termination is illegal, null and void. It was further ordered that petitioner is entitled for reinstatement without back wages and also without continuity of service. Thus, petitioner has presented this petition challenging the denial of back wages as well as also without continuity of service.

3. Learned counsel for the petitioner submitted that petitioner is similarly situated persons like one Sh. Som Dutt and others who continued the litigation namely CWP No. 7992 of 1987. During pendency of the said petition the official respondents have discriminated in extending the benefit of reinstatement on par with one Sh. Som Dutt and others to the petitioner. Services of Sh. Som Dutt and others were regularized whereas petitioner has not been extended benefit of regularization also. In this background, labour court has erred in not extending the benefit of back wages as well as continuity of service. Once the labour court held termination is illegal and arbitrary, petitioner is entitle to consequential service benefits denial of

such benefits would amount to arbitrariness.

4. Per contra, learned counsel for the respondents submitted that petitioner has withdrawn as petitioner in CWP No. 7992 of 1987 and he is out of service from 1987 to 2002. Therefore, question of back wages and continuity of service do not arise. Had he continued as petitioner, he would have had the benefit on par with Sh. Som Dutt. Hence no interference is called for.

5. Heard learned counsel for the parties.

6. The labour court has erred in not assigning the reasons for denying the back wages as well as continuity of service when similarly situated persons who have approached this court and continued to pursue the matter and the official respondents suo moto reinstated and extended the benefit of regularization to such of those petitioners who were pursuing the matter before this court. Thus, official respondents have discriminated among petitioner and others insofar as reinstating and regularization on par with Sh. Som Dutt and others. These events have not been taken note of by the labour court. Accordingly, labour court has erred in denial of back wages and continuity of service. Award passed by the Labour Court dated 12.12.2002 is modified insofar as denial of back wages and continuity of service to the extent that petitioner is entitled for 50% back wages and continuity of service.

7. Accordingly, writ petition is allowed in part. Reserving liberty to the petitioner to approach the concerned official respondent insofar as regularization and other benefits on par with Sh. Som Dutt and others. If the

petitioner approaches the concerned official respondent, same shall be examined on par with Sh. Som Dutt and others and to pass speaking order and communicate the same within a period of 4 months from the receipt of petitioner's application/representation.

01.12.2017

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No