

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

CWP No.9833 of 2007 (O&M)

Date of Decision:05.09.2017

Divisional Forest Officer (Social Forestry)

... Petitioner

Vs.

Raghubir Singh and another

... Respondents

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

Present : Mr. Rajesh Gaur, Addl. A.G. Haryana.

Mr. Sandeep Thakan, Advocate for respondent No.1.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has challenged the validity of award passed by the Labour Court dated 1.2.2006 (Annexure P-8).

Respondent No.1-workman was stated to have been appointed on daily wage basis from 1.1.1993 to 1.8.1996 (respondent No.1 stated that he has worked upto 1.1.1997). Respondent No.1-workman raised a demand notice on 9.6.1999. Labour Court proceeded to pass an award on 1.2.2006 to the extent that respondent-workman is entitled to reinstatement with continuity of service and 50% back wages. Hence, the present petition.

Learned counsel for the petitioner vehemently contended that respondent-workman has worked for only 3 ½ years. Demand notice was issued on 9.6.1999. That apart respondent-workman has not pleaded that he was unemployed so as to claim back wages. Thus, extending the benefit of back wages of 50% by the Labour Court is impermissible.

Per contra, learned counsel for the respondent-workman submitted that Labour Court having regard to the fact that petitioner was out of service w.e.f. 1.8.1996, extended the benefit of 50% back wages only in the absence of material. Thus, there is no infirmity in awarding 50 % back

wages only. During pendency of the petition, petitioner has taken back the respondent-workman to duty. Hence, no interference is called for in respect of award passed by the Labour Court.

Heard learned counsel for the parties.

Crux of the matter is whether the respondent-workman is entitled to 50% of back wages in the absence of pleading or material or not?

Even though respondent-workman has not pleaded relating to unemployment, he is entitled to back wages at least 50% for the reasons that he was out service w.e.f. 1.1.1997 till reinstatement. For his livelihood, he has to do some work. Therefore, rightly, the Labour Court has extended the benefit of 50% of back wages. Hence, no interference is called for in respect of award passed by the Labour Court dated 1.2.2006.

Accordingly, petition stands dismissed.

05.09.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**