

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

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**CWP-16171-2011 (O&M)
Date of decision:04.09.2017**

Punjab Agro Industries Corporation Limited

....Petitioner

Versus

Presiding Officer, Industrial Tribunal, Ludhiana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr.Arun Nehra, Advocate for the petitioner.

Mr. Sharwan Sehgal, Advocate for the respondents-workmen.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, petitioner has challenged the validity of the award dated 10.05.2011 (Annexure P-5).

2. Respondents No.2 to 7 were stated to have been appointed as Helpers on daily wage basis on 14.10.1997 by Senior Manager of the petitioner. Their services were continued up to 23.06.2000. Learned counsel for the petitioner submitted that services of respondents No.2 to 7 were engaged on daily wage basis from 14.10.1997 to 31.12.1998 and from 31.12.1998 to 23.06.2000 they were given work on contract basis. To substantiate said contention, counsel for the petitioner relied on cross-examination of the workmen as well as Management witness to the extent

Ex. M1 to M12, photocopies of the bills which were signed by the workmen read with cross examination of the management witness wherein workmen have referred to submission of bill and execution of the receipt for the period from 31.12.1996 to 23.06.2000. It was further submitted that respondents' services have been dispensed way back on 26.03.2000. Therefore, question of reinstating them at this distance of time do not arise. It was also submitted that their initial appointment on daily wage is contrary to regulation/rules. The labour court failed to appreciate the above factual aspects so as to extend the benefit of reinstatement with continuity of service etc. to respondents No.2 to 7.

3. Per contra, learned counsel for the respondents No. 2 to 7 submitted that petitioner's had failed to produce relevant attendance register. On the contrary, they have produced only a certificate issue by one of the official of the petitioner. No material has been placed on record to show that respondents No. 2 to 7 were appointed on contract basis from 31.12.1998 to 23.06.2000. Thus, labour court in the absence of any document relating to engaging respondents No.2 to 7 on contract basis proceeded to pass an award in favour of respondents No.2 to 7 to the extent of reinstatement with continuity of service with full back wages. Learned counsel for the respondents No.2 to 7 fairly submitted that petitioner's have paid back wages to the respondents-workmen.

4. Heard learned counsel for the parties.

5. Undisputedly, respondents No.2 to 7 have served the petitioner from 14.10.1997 to 26.03.2000. No material has been placed on record so

as to convert the daily wager to that of contract employee or piecemeal work has been entrusted to respondents No.2 to 7. No doubt in the cross examination workmen have stated that they have been engaged on contract basis and bills have been submitted and execution of receipt is also admitted by the respondents-workmen. In the absence of conversion of daily wager to that of contract basis no material or order is on the record. Further management witness-1 has specifically stated that respondents No.2 to 7 were entitled for provident fund as provident fund was deducted from October, 1997 to 26.03.2000. This material shows that respondents were engaged on daily wage basis. If respondents No.2 to 7 were appointed on contract basis or engaging them by giving piecemeal work from 31.12.1998 to 23.06.2000 in that event question of deduction of provident fund would not have arisen. Based on these factual material, there is no infirmity in the labour court award insofar as ordering reinstatement with continuity of service is concerned. It is to be noted that respondents' services have been dispensed way back on 26.03.2000 and they were appointed on daily wage basis. Since their appointments were not in accordance with law and rules or regulations. Consequently, they are not entitled to reinstatement. They are entitled to compensation in terms of the case titled as ***BSNL versus Bhurumal*** reported in 2014(7) SCC 177. Accordingly, award of the Labour Court dated 10.05.2011 (Annexure P5) is modified to the extent that respondents No.2 to 7 are entitled to compensation. Petitioner is hereby directed to pay compensation of Rs.1.5 Lacs to each of the respondents No.2 to 7. Petitioner is also directed to pay the above compensation within a

period of 4 months from today failing which respondents No.2 to 7 are entitled to interest @ 6% per annum.

6. With this observation, CWP stands disposed of.

04.09.2017
pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons	Yes/No
Whether Reportable:	Yes/No