

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

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**CWP-12599-2013 (O&M)
Date of decision:22.12.2017**

Chandigarh Transport Undertaking, Chandigarh and another
....Petitioners
Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court, U.T.,
Chandigarh and another
.... Respondents

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

Present: Mr. Sanjiv Ghai, Advocate and
Ms. Priyanka Dalal, Advocate for the petitioners.

Mr. Pritam Singh Saini, Advocate and
Mr. Amit Kaith, Advocate for respondent no.2.

P.B. BAJANTHRI, J. (ORAL)

CM Nos.5248-49 of 2014

Heard. Learned counsel for the petitioners contended that respondent-workman is not entitled for wages on the count that LPA litigants whose services have been dispensed on 29.05.2007. Consequently, by virtue of judicial order in LPA they were taken back to duty on 23.09.2014 and such of those LPA litigants are entitled to 25% back wages. In view of these factual aspects the respondent-workman cannot be treated as in service during the period from 29.05.2007 to 23.09.2014. Therefore, respondent-workman is not entitled to wages under Section 17-B of I.D.Act. Respondent-workman case cannot be considered in respect of payment of wages with reference to LPA litigants since respondent-workman case is

entirely different. That apart execution proceeding was suspended till further orders on 31.05.2013. Therefore, respondent-workman is entitled to wages under Section 17-B of I.D.Act. Consequently, petitioners are hereby directed to calculate and disburse the wages during the intervening period from 31.05.2013 till today.

Accordingly, CM stands disposed of.

Main case.

Petitioners have challenged order of the Labour court dated 10.02.2012 (Annexure P9). On 20.12.2017 factual aspect of the case has been recorded and further petitioners were given option either to extent the service benefits on par with the LPA litigants or in the alternative matter would be remanded to the Labour Court for deciding the applications filed by the petitioner and respondent-workman. Order dated 20.12.2017 reads as under:-

“The matter heard at length.

Respondent No.2-workman's services were dispensed in the year 1999 and he was taken back to duty. In the year 2002 he is stated to have abandoned the services and he was taken back to duty. Further his services were terminated on 05.04.2005. Before giving effect to the order dated 05.04.2005, petitioner submitted application under Section 33(2)(b) of the Industrial Disputes Act, 1947 (hereinafter referred to as “the Act”). Similarly, respondent-workman invoke Section 33-A of the Act with reference to earlier reference. Faced with these factual aspects read with order passed by the Labour Court dated 10.02.2012 it is evident that Labour court

has not passed a detailed order in respect of applications under Sections 33-A and 33(2)(b) independently. What has been decided is only Section 33(2)(b) application. Therefore, matter requires for setting aside the order dated 10.02.2012 and remanding the matter to the Labour Court for deciding the applications under Sections 33-A and 33(2)(b) of the Act independently. At this stage, it is noticed that similarly situated persons whose services have been terminated were subject matter of litigation and orders have been passed in favour of the workmen by the learned Single Judge and it is subject matter of LPA wherein in LPA interim direction has been given that workmen are entitled to 25% back wages. Therefore, learned counsel for the petitioner is hereby directed to get instructions in order to give quietus to the litigation whether petitioner would be considered on par with the litigants in LPA or not. If the petitioner agreed for extending the benefits on par with the LPA litigants, matter can be closed at this stage. If the petitioner disagree with the extending any benefit on para with the LPA litigants to the petitioner, in that event, order of the Labour Court dated 10.02.2012 would be set aside and matter is required to be remanded to the Labour Court for deciding the applications under Sections 33-A and 33(2)(b) of the Act independently. If the matter is remanded to the Labour Court, in that

event, respondent-workman would be entitled to monetary benefits during the intervening period from 05.04.2005 till application under Section 33(2)(b) of the Act is allowed.

List this matter on 22.12.2017 at 2'O clock.

Copy of this order be given to the learned counsel for the petitioner under the signatures of the Bench Secretary.”

Learned counsel for the petitioner submitted on instructions that matter be decided on merits. Having regard to the order dated 20.12.2017, order passed by the labour court dated 10.02.2012 (Annexure P-9) is set aside. Labour court is requested to decide the applications of the petitioners and respondent-workman independently within a period of 6 months from today. Parties are directed to appear before the labour court on 24.01.2018 and co-operate in deciding the respective applications.

22.12.2017

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No