

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15814-2012 (O&M)

Date of Decision:-26.10.2017.

Municipal Council, Gobindgarh, Fatehgarh Sahib

.....Petitioner

Versus

Industrial Tribunal, Patiala and another

.....Respondents

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

Present: Mr. Rajinder Sharma, Advocate for the petitioner.

Mr. H.S. Dhindsa, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has assailed the award passed by the Labour Court dated 19.01.2012 (Annexure P-9).

Respondent-workman Balwinder Kumar has worked for the period from 27.4.2003 to 31.5.2005. His services were orally terminated w.e.f. 01.06.2005. Thus, the respondent-workman raised an industrial dispute by issuing demand notice on 27.7.2005. Labour Court passed award in favour of the respondent-workman and extended the benefit of reinstatement with continuity of service without back wages. Petitioner aggrieved by the award passed by the Labour Court dated 19.01.2012 presented this petition.

Learned counsel for the petitioner submitted that respondent-

workman was not appointed in accordance with law. His services were

engaged through contractor. Further no material has been placed on record to show that petitioner has directly engaged the services of the respondent-workman. Therefore, award passed by the Labour Court is in the absence of evidence that respondent-workman's services were engaged by the petitioner. Consequently, Labour Court award dated 19.01.2012 is liable to be set aside.

Per contra learned counsel for the respondent-workman submitted that evidence has come on record to show that respondent-workman was engaged by the petitioner vide Exhibit W-3 and certificate issued by the Executive Officer, Municipal Council, Gobindgarh for the period from 28.04.2003 to 24.7.2004, 4.8.2004 to 1.10.2004 and 1.12.2004 to 5.5.2005 dated 28.10.2008 (Annexure P-6). Thus, there is no infirmity in the award. Hence, no interference is called for.

Heard learned counsel for the parties.

Municipal Council, Gobindgarh is a public institution. If any posts are required to be filled up, it should be in accordance with law as well as complying Article 14 and 16 of the Constitution of India. Perusal of the records, it is crystal clear that while engaging the services of the respondent-workman, there is no compliance to Article 14 and 16 of the Constitution. Therefore, the respondent-workman has no right to continue in the post. Having regard to the disputed fact that the respondent-workman was engaged by contractor or directly by the petitioner read with the evidence on record Exhibit W-3 and Annexure P-6 assuming that the petitioner has engaged the services of the respondent-workman, at the best respondent-workman is entitled to compensation and not for reinstatement

resorting to inviting applications from the eligible candidates, respondent-workman cannot be put back into service. Moreover, the respondent-workman's services were orally terminated on 1.6.2005 and he is out of service from 1.6.2005. Hence, question of reinstatement do not arise in view of the judgment passed by Hon'ble Supreme Court in the case of **Bharat Sanchar Nigam Limited v. Bhurumal (2014) 7 SCC 177.** Accordingly, award passed by the Labour Court is modified to the extent that respondent-workman is entitled to compensation of ₹ 1.5 lacs. The same shall be paid by the petitioner within a period of 3 months from today. If the compensation amount is not paid within the stipulated period in that event, respondent-workman is entitled to interest @ 6 % per annum from today.

Petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

October 26, 2017.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.