

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

204a

**CWP-5833-2009 (O&M)
Date of decision: 15.09.2017**

Devi Dutt

....Petitioner

Presiding Officer, Industrial Tribunal-cum-Labour Court, Chandigarh and
another

.... Respondents

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

Present: Mr. Naveen Daryal, Advocate for the petitioner.

Mr. Rajesh Hooda, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has challenged the award passed by the Labour Court dated 13.02.2007 (Annexure P-3).

2. Petitioner enrolled his name in the employment exchange pursuant to the respondents requisition for the post of Labourer. Petitioner's name was sponsored by the employment exchange on 21.11.1990. Accordingly, petitioner was appointed on 10.12.1990 as a Labourer. While working as such the respondents notified to fill up Peon post on regular basis. Name of the petitioner was not sponsored by the employment exchange obviously for the reason that his name has already recommended for his employment as a Labourer in the respondent-department in the

month of November, 1990. The respondents should have suo moto accepted the petitioner's application for regular recruitment to the post of Peon or in the alternative they should have made a communication to the employment exchange stating that the petitioner's initial recommendation is only as a Labourer and for the purpose of Peon post his name is required to be recommended once again. On the other hand, employment exchange deleted petitioner's name in view of his appointment as a Labourer on daily wage. Due to lack of communication between the respondents and petitioner and there was a misunderstanding in the employment exchange to the extent that petitioner's appointment was for permanent post as a Labourer. Even though, petitioner was eligible for the post of Peon, his name was not sponsored by the employment exchange for the reasons his name was deleted as and when his name was recommended and he was appointed as a Labourer. For the purpose of selection and appointment to the Peon post in the respondent, respondent could have taken open application also in addition to the sponsored candidates from the employment exchange. Thus, the respondents have committed error while not considering petitioner's name for Peon to the extent that his name was not sponsored by the employment exchange.

3. On the other hand, learned counsel for the respondents pointed out that the persons who were stated to be junior in the list maintained by the employment exchange their names have been sent for the purpose of selection and appointment for the post of Peon. In this back ground, labour court has passed an award in favour of the petitioner. Labour court has

proceeded to pass award in favour of the petitioner-workman only to the extent of awarding 50% of back wages from the date of disengagement.

4. In view of these facts and circumstances, labour court award is modified. Instead of granting 50% of back wages to the petitioner, respondents are hereby directed to pay compensation of Rs.3 Lacs to the petitioner. They are directed to pay within a period of 4 months from today failing which he is entitled for interest @ 6% per annum from today.

5. With this observation, CWP stands disposed of.

15.09.2017

pooja saini

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

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No