

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-19751-2012 (O&M)
Date of Decision:-08.11.2017.

Municipal Committee, Assandh

.....Petitioner

Versus

Presiding Officer Labour Court and others.

.....Respondents

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

Present: Mr. R.S. Kundu, Advocate for the petitioner.

Mr. Ram Niwas Sharma, Advocate for the respondent No.2.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the validity of the award passed by the Labour Court dated 28.03.2012 (Annexure P-3).

Respondent No.2 was appointed as a driver on 13.04.2002 by the Municipal Council, Karnal on contract basis for a period of 89 days which was extended from time to time. While working as a driver in the Municipal Council, Karnal, his services were drafted to Municipal Committee Assandh on 23.04.2002. Last extension of respondent No.2 services is upto 12.12.2002. Consequently Municipal Council, Karnal made a communication to Municipal Committee, Assandh to relieve the petitioner on 12.12.2002. Respondent No. 2 raised an industrial dispute stating that the Municipal Committee, Assandh have relieved respondent No.2 abruptly Labour Court proceeded to pass award in favour of respondent No.2 to the effect that he is entitled to reinstatement with continuity of service and 50% back-wages from the date of Demand Notice dated 23.11.2004. Hence the present petition.

Learned counsel for the petitioner submitted that respondent No.2 was not appointed by the petitioner. He was appointed by the Executive Officer-cum-Municipal Council, Karnal. While respondent was working at Karnal, his services were drafted to Assandh by the Deputy Commissioner, Karnal on administrative ground. Thus, respondent was working with the petitioner upto 12.12.2002 the date on which Municipal Council, Karnal, informed petitioner to relieve respondent-workman. Thus, the respondent has no grievance against the petitioner for the reasons that respondent No.2 was not appointed by the petitioner. It was further, submitted that respondent-workman was appointed by the Executive Officer-cum-Municipal Council Karnal. He has not been arrayed as party before the Labour Court. In view of these facts and circumstances, Labour Court has erred in directing for re-instatement with the continuity of service and 50% back-wages.

Per contra learned counsel for the respondent submitted that the Deputy Commissioner has appointed the respondent-workman as a driver in the Municipal Council, Karnal. Due to administrative exigencies, respondent-workman's services have been drafted to Municipal Committee Assandh on 23.04.2002 and he has continued from time to time upto 12.12.2002. In view of completion of 240 days in the petitioner's Municipal Committee, Assandh, the Labour Court has rightly passed award in favour of the respondent. Consequently no interference is called for.

Heard learned counsel for the parties.

Admittedly, respondent No.2 has no right to continue to hold the post of driver either in Karnal or Assandh as he was appointed only for 89 days and it was extended from time to time. Respondent No.2 was appointed by the Municipal Council Karnal even though the Deputy Commissioner Karnal has drafted the respondent services to Municipal Committee Assandh. Respondent No.2 should have impleaded Municipal Council Karnal as a necessary party to claim any relief against the initial appointing authority. At this stage learned counsel for the respondent No.2 pointed out

that he had approached this Court by filing a CWP No. 16172 of 2004. While withdrawing this petition, liberty was granted to the respondent-workman to pursue his remedy against the Municipal Committee Assandh by issuing a fresh demand notice. Therefore Municipal Council Karnal has not been arrayed as party. Respondent No.2 services have been dispensed way back on 12.12.2002 read with fact that respondent was appointed for 89 days on contract basis therefore question of reinstating him with continuity of service at this juncture do not arise. Having regard to the above facts and circumstance, award of the Labour Court dated 28.03.2012 is set aside. Respondent-workman is entitled to compensation of Rs.50,000/-. Compensation amount shall be paid by the Municipal Committee, Assandh in view of the orders passed in CWP No. 16172 of 2004 dated 14.10.2004 and the fact that Municipal Committee, Assandh, has not questioned order dated 14.10.2004 and it is binding on the petitioner. Consequently, contention of the petitioner that they have not issued order of appointment to respondent cannot be appreciated.

With the above observation, petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

November 08, 2017.

rajeev/tarun

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.