

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19956 of 2012(O&M)

Date of Decision:-28.07.2017.

Punjab School Education Board and another

.....Petitioners

Versus

Presiding Officer, Industrial Tribunal, Gurdaspur and another

.....Respondents

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

Present: Ms. Avin Kaur Sandhu, Advocate for
Mr. Amit Aggarwal, Advocate for the petitioner.

Mr. V.K. Shukla, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioners have assailed the award passed by the Labour Court dated 21.10.2011 (Annexure P-2).

2.) Respondent-workman was stated to have been appointed as a Helper on 01.02.1996 and his services were terminated on 05.06.1998. Respondent-workman raised the industrial dispute in the year 2002. Labour Court while appreciating the fact that respondent-workman has rendered 240 days and so also no reasons have been assigned for respondent-workman's termination, passed the award of reinstatement as a Helper with continuity of service along with 50% back wages from the date of termination of respondent-workman's services till he is taken back to duty by the petitioners herein. Thus, the present petition.

3.) Learned counsel for the petitioners submitted that respondent-workman was appointed on daily wage basis. He has no right to continuity of service so also back wages. Fairly it was submitted that after termination of the respondent-workman, petitioners have engaged another person after gap of some months. Learned counsel for the petitioners further submitted that there is a delay in raising the industrial dispute to the extent of 4 years. Consequently, respondent-workman is not entitled for back wages from the date of termination of his services. It was also admitted that petitioners have implemented the award to the extent of reinstating the respondent-workman. Respondent-workman is working even to this day. Having regard to the conduct of the respondent-workman that there is a delay in raising the industrial dispute, respondent-workman is not entitled for back wages. To that extent, Labour Court award is liable to be set aside.

4.) Per contra, learned counsel for respondent No.2 submitted that Labour Court has awarded only 50% back wages after taking into consideration the fact that there is a delay of 4 years in raising industrial dispute. Therefore, there is no infirmity in the award dated 21.10.2011.

5.) Heard learned counsel for the parties.

6.) Short question for consideration in the present petition is whether the respondent-workman is entitled for 50% back wages from the date of termination of his service till he is taken back to duty by the petitioners or not? Admittedly, respondent-workman has raised the industrial dispute only in the year 2002 with reference to date of his termination on 05.06.1998. Therefore, passing of award by the Labour Court to the extent that respondent-workman is entitled for 50% back wages

passed by the Labour Court dated 21.10.2011 is modified to the following extent:-

“That the respondent-workman is entitled to 50% back wages from the date of Reference dated 19.7.2002 and not from 05.06.1998.”

Petitioners are hereby directed to calculate and disburse back wages within a period of 3 months from today. Failing which respondent-workman is entitled to interest @ 8% per annum from the date of award.

7.) With the above observations, petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

July 28, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.