

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

Date of decision: 20.04.2017

CWP No.15085 of 2015 (O&M)

Shyam Lal

...Petitioner

Vs.

Punjab & Sind Bank & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Pankaj Gupta, Advocate, for the petitioner.

Mr. R. Kartikeya, Advocate, for the respondents.

RAJIV NARAIN RAINA, J. (ORAL)

Mr. Kartikeya with great vehemence opposes the admission of this case and dismissal of it at the threshold. It is his submission that the Bank has interpreted the directions of the Presiding Officer, Central Government Industrial Tribunal -cum- Labour Court-II, Chandigarh in the impugned award to read that reinstatement with continuity of service without back wages would only mean payment of minimum of pay scale of the post of Peon on which the petitioner was temporarily appointed at the time of termination and not pay of regular Peons. As a result of this line of thinking, they have been paying the minimum of the pay scale admissible to Peons as notified by the Assistant Labour Commissioner for UT Administration, Chandigarh, as minimum wages under who's beat the petitioner serves in the respondent - Bank.

I have considered the contention, but do not find the interpretation placed by the Bank acceptable for the reason that there is no such declaration or direction in the Award limiting payment to minimum of the pay scale and without increments workman was deprived of during the years spent in litigation. Even if there was such a direction, it would be arbitrary and open to correction to bring it in tune with the principles of equality enshrined in Article 14 of our Constitution to bring on par the pay of the petitioner with his counter-part Peons working shoulder-to-shoulder in the same Bank, who receive twice as much pay, if not more. There is sufficient evidence placed by the petitioner on record of this case to confirm that the petitioner receives a sum of ₹6750/- since reinstatement in January, 2013, as against similarly placed persons, who too had been reinstated after awards of the Labour Courts granted reinstatement etc., are in receipt of pay of about ₹15,000/-.

Mr. Kartikeya refines his argument to contend that when the services of the petitioner were terminated, he was a temporary employee drawing minimum of the pay scale and, therefore, reinstatement and continuity meant that the petitioner would be put back to his original position alone since Labour Court could not change the status of the employee.

That may be so, but the status of the employee at this stage post award is not significant since the issue in dispute is only one of parity of pay. Equal work will bring equal pay. The examples on the basis of whom parity is claimed are also employees of the Bank, who were also temporary when their services were illegally terminated in the past, but secured Awards from Labour Court reinstating them to service with continuity.

The picture which emerges is that the Bank has committed a palpable wrong with the petitioner from January, 2013 onwards restricting pay to the minimum of the scale, thereby creating disparity in pay and it has, therefore, to immediately make amends by paying the arrears of difference of pay/salary to the petitioner from the date of the Award till the present and for the future and continue to pay salary at the same rate as is being paid to similarly placed persons. This would restore the equitable balance disturbed by misinterpretation of the operative part of the Award.

For the above reasons, this petition is allowed. The impugned inaction of the Bank in denying full pay and allowances as admissible to colleagues is declared illegal, arbitrary and *ultra vires* Articles 14 & 39(d) of the Constitution. Accordingly, the arrears of difference of salary be determined and paid to the petitioner within a period of one month from the date of receipt of the certified copy of this order, either from this Court or from the petitioner, whichever is earlier.

20.04.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*