

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

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**CWP-22125-2013 (O&M)
Date of decision:29.08.2017**

Principal of Industrial Training Institute Loharu

....Petitioner

Versus

Dharampal and another

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Sumit Jain, Advocate for the petitioner.

Mr. J.S.Bedi, Addl. A.G. Haryana.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, petitioner has challenged the award dated 17.12.2012 (Annexure P-4) passed by the Labour Court.

Respondent No.1-workman was appointed as a Daily Wager against Sweeper post on 23.12.2002 under the Vocational Education Scheme. On 15.06.2008 Vocational Education Scheme was closed. Consequently, respondent No.1-workman's services were terminated on 08.07.2008. Respondent No.1-workman raised an industrial dispute. The Labour court allowed the reference to the extent that respondent-workman is entitled to reinstatement without back wages. Hence the present petition.

Learned counsel for the petitioner submitted that respondent No.1-workman was appointed under a particular scheme. As and when

scheme was closed consequently his services were terminated. Therefore, question of reinstating him do not arise. It was further contended that even though on 05.10.2013, this court was pleased to stay the order of the Labour court subject to compliance of Section 17-B of Industrial Disputes Act. Whereas, respondent-workman has not filed any application or affidavit till 06.10.2016. On 06.10.2016 he has filed an affidavit. Thereafter, he has withdrawn the affidavit on 09.03.2017. In this background, respondent No.1-workman is not entitled to reinstatement.

Per contra, learned counsel for the respondent submitted that even though respondent-workman was appointed as a daily wager under the particular scheme, since he has worked from 23.12.2002 to 08.07.2008, the petitioner is required to comply Section 25 of the Industrial Disputes Act before dispensing services of the workman. Therefore, there is no infirmity in the award passed by the Labour Court insofar as reinstatement without back wages.

Heard learned counsel for the parties.

Having regard to the fact that respondent No.1-workman was appointed on daily wage basis against the post of Sweeper under the Vocational Education Scheme, respondent No.1-workman has no right over the post. Moreover, Vocational Education Scheme itself is closed. Since the respondent No.1-workman has worked from 23.12.2002 to 08.07.2008 therefore, he is entitled to compensation instead of reinstatement. In view of closure of scheme labour court award to reinstate workman is arbitrary and illegal and contrary to the Vocational Education Scheme. Therefore, the

award passed by the Labour court dated 17.12.2012 is modified to the extent of reinstating the respondent No.1-workman into service with immediate effect to that of compensation of Rs.2.5 lacs. Compensation of Rs.2.5 lacs shall be paid by the petitioner to the respondent No.1-workman within a period of 3 months from today failing which the respondent No.1-workman is entitled to interest @ 6% per annum from today.

With these observations, petition stands disposed of.

29.08.2017

pooja saini

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

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No