

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

CWP No.18518 of 2016

Date of Decision:19.12.2017

Mahavir Prashad

... Petitioner

Vs.

The Presiding Officer and another

... Respondents

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

Present : Mr. Deepak Sonak, Advocate for the petitioner.

Mr. G.S. Wasu, Addl. A.G. Haryana.

P.B. BAJANTHRI J. (Oral)

In the instant writ petition, petitioner has challenged the award dated 26.02.2015 (Annexure P-1).

Petitioner was appointed as a Pump Operator on 21.7.2009. His services were dispensed on 21.10.2012. Thus, he raised industrial dispute and it was decided in favour of the petitioner to the extent of reinstatement with continuity of service and without back wages. Thus, petitioner being aggrieved by the award passed by the Labour Court dated 26.02.2015, presented this petition.

Learned counsel for the petitioner submitted that in the claim statement he has stated that he was unemployed. The same has not been appreciated by the Labour Court while declining back wages.

Per contra, learned counsel for the respondents submitted that merely making statement in the claim statement do not give any right for entitlement of back wages unless it is decided by the Labour Court. Therefore, Labour Court has rightly declined to extend the benefit of back wages.

Heard learned counsel for the parties.

Short question for consideration in the present petition is whether petitioner is entitled for back wages or not?

Undisputedly, petitioner's services have been dispensed with in violation of provisions of Industrial Dispute Act, 1947. Even though if the petitioner was working during the period from the date of dispensing his services till reinstatement, denial of back wages may not be correct for the reasons that for the purpose of livelihood one has to work. Therefore, completely denying back wages by the Labour Court is error apparent on the record. Hence, petitioner is entitled to 50% of back wages from the date of demand notice till reinstatement. To that extent, award passed by the Labour Court dated 26.02.2015 is modified. 50% back wages shall be paid to the petitioner by the concerned respondent within a period of three months from the date of receipt of a certified copy of this order. Failing which petitioner is entitled to interest @ 6% per annum from today.

Disposed of accordingly.

19.12.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No