

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-602-2014 (O&M)

Date of Decision:-07.11.2017.

Kuldeep

.....Petitioner

Versus

M/s Premium Moulding and Pressing Pvt. Ltd. and another

.....Respondents

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

Present: Mr. Sandeep Kotla, Advocate for the petitioner.

Mr. Rajeev Sharma, Advocate for respondent No.1.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has sought for modification of the award passed by the Labour Court dated 18.10.2013 (Annexure P-7).

Petitioner was stated to be appointed as a Helper on 30.6.1999 and he has worked upto 9.9.2009. His services were dispensed on 11.9.2009 onwards with reference to the fact that the petitioner was involved in a criminal case and FIR No.129 dated 10.9.2009 for the offence under Section 381 IPC was registered against him in the Police Station Udyog Vihar, Gurgaon. Thus, the petitioner raised an industrial dispute. Industrial Tribunal while deciding the reference instead of ordering reinstatement with continuity of service and back wages ordered only for compensation of ₹ 70,000/-. Hence, the present petition.

Learned counsel for the petitioner submitted that when the Tribunal has held that dispensation of petitioner's service is contrary to Section 25-F of the Industrial Disputes Act, 1947, consequently, he is entitled to reinstatement with continuity of service and back wages and not compensation as awarded by the Labour Court. In support of this contention, learned counsel for the petitioner relied on decision reported in **2015 (4) SCC 458 Jasmer Singh Vs. State of Haryana and another.**

Learned counsel for the petitioner submitted that once the order of termination or dispensation of a workman is contrary to Section 25-F and other provisions of the Industrial Disputes Act, 1947, in that event reinstatement is mandatory.

Per contra learned counsel for the respondent No.1 while resisting the petitioner's claim submitted that as on 10.09.2009, petitioner was involved in a criminal case. He had abandoned the service. The same has not been taken into consideration by the Labour Court. Having regard to the fact that the petitioner was involved in a criminal case, question of reinstatement with continuity of service do not arise. Consequently, no interference is called for with the Industrial Tribunal-cum-Labour Court award dated 8.10.2013.

Heard learned counsel for the parties.

Crux of the matter in the present case is whether the petitioner is entitled to reinstatement with continuity of service with full back wages or not. Undisputedly, petitioner joined service in the year 1999 and he remained absent on 10.09.2009, the date on which FIR was filed against him. Even though formal order of termination has not been passed by the respondents. Further the respondents are of the view that since petitioner

abandoned the service with reference to filing of FIR and launching of criminal case against him. Therefore, question of reinstating him with continuity of service do not arise in view of acquittal in criminal case. Learned counsel for the petitioner relied on decision of the Supreme Court (cited supra). The cited decision is distinguishable having regard to the factual aspect of the present petition as petitioner was involved in a criminal case. Even though he has been acquitted in the criminal case once the employer loses faith in the employee who was involved in a criminal case, question of reinstatement may not be correct. Award of compensation of a sum of ₹ 70,000/- for rendering 10 years service is too meager. Therefore, compensation of ₹ 70,000/- is to be enhanced to a sum of ₹ 3,00,000/-. The concerned respondent is hereby directed to extend the benefit of compensation of ₹ 3,00,000/- within a period of 4 months from today.

With the above observations, petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

November 07, 2017.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.