

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.993 of 2013

Date of Decision:-19.07.2017.

The Director (T) Centre for Research & Application in Plant Tissue Culture
(Haryana State Council for Science & Technology) and another

.....Petitioners

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar and another

.....Respondents

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

Present: Mr. C.S. Singh, Advocate for
Mr. G.S. Hooda, Advocate for the petitioners.

Mr. Rose Gupta, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioners have assailed the award passed by Labour Court dated 3.4.2012 (Annexure P-1).

Respondent-workman is stated to have joined service of the petitioner on 10.4.2006 for a period of 89 days. He has worked upto 16.8.2006. Respondent-workman issued a demand notice on 9.5.2007. Thus, Reference has been decided by the Labour Court in favour of the respondent-workman with a direction to the petitioners to reinstate respondent-workman into service with immediate effect and also pass an order that respondent-workman is not entitled for any relief of backwages etc.

Learned counsel for the petitioners submitted that respondent-

workman has not worked for more than 240 days. There is a break in service during the intervening period from the date of initial appointment from 10.4.2006 till 16.8.2006 and also during the intervening period from 17.11.2006 to 26.3.2007. Therefore, award passed by the Labour Court insofar as reinstatement is concerned, is illegal and contrary to the facts.

On the other hand, learned counsel for the respondent-workman submitted that no material has been produced by the petitioners so as to apprise that there is a break in service during the intervening period from the date of appointment till date termination. Therefore, Labour Court has rightly held that respondent-workman has worked for 240 days. Consequently, ordering reinstatement is in accordance with the provisions of the Industrial Disputes Act, 1947.

Heard learned counsel for the parties.

Crux of the matter is whether the respondent-workman is entitled for reinstatement or not. Undisputedly, respondent-workman has stated to have worked only during the period from 2006 to 2007. Therefore, respondent-workman is not entitled for reinstatement. At the best, he is entitled for compensation as held in the case of **Bharat Sanchar Nigam Limited v. Bhurumal (2014) 7 SCC 177** wherein para 33 reads as under:-

“33. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wage

worker and where the termination is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.”

In view of the above principle laid down by the Supreme Court, order of Labour Court dated 03.04.2012 is modified in the following terms that the respondent-workman is entitled to compensation of Rs.50,000/- and not for reinstatement into service. Petitioners are hereby directed to pay the compensation amount within a period of 3 months from today.

Petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

July 19, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.