

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

LPA No.78 of 2015 (O&M)  
Date of decision: March 23, 2017

Gurvinder Singh

---Appellant

Versus

Presiding Officer, Industrial Tribunal, Jalandhar  
and others

---Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal  
Hon'ble Mr. Justice Harinder Singh Sidhu**

**Present: Mr.Kapil Kakkar, Advocate  
for the appellant.**

Mr.Tribhawan Singla, Advocate  
for respondents No., 2 and 3.

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**HARINDER SINGH SIDHU, J.**

1. This intra-Court appeal under Clause X of the Letters Patent Act has been filed against the judgment dated 10.11.2014 of the learned Single Judge, whereby, CWP No.12596 of 2012 filed by the appellant for modifying the Award dated 16.5.2012 passed by the Industrial Tribunal, Jalandhar and seeking reinstatement with full back wages, instead of compensation of ₹ 2372/-, has been partly allowed.

2. Along with the appeal, an application seeking condonation of 01 day delay in filing the appeal has also been filed. For the reasons stated in the application, the delay of 01 day in filing the appeal is condoned.

3. The appellant raised an industrial dispute claiming that he started working as attendant on daily wages in the guest house of respondent

No.3 – Punjab Technical University on 5.5.2003/6.5.2003. He claimed that vide order dated 3.7.2003, his services were regularised w.e.f. 1.7.2003. He worked from 6.5.2003 to 24.11.2003, whereafter, he was not allowed to work. He was again allowed to work, but on 5.8.2005, his services were terminated without issuing show-cause notice or charge-sheet, nor was he given any retrenchment compensation. Violation of Sections 25-F and 25-G of the Industrial Disputes Act, 1947 (for short 'the Act') was pleaded.

4. On the other hand, it was the case of the respondent-Management that the appellant was appointed w.e.f. 5.5.2003 on daily-wage basis at rates approved by the Deputy Commissioner. He remained absent for months of June, 2003, August, 2003 to October, 2003 and thereafter from 5.12.2003 to 7.4.2004. He ultimately abandoned the job on his own accord on 12.8.2005.

5. The Ld. Tribunal in its Award dated 16.5.2012 took note of the statement regarding attendance produced by the Management that the appellant had worked from August, 2004 to August 2005 except March, 2005. He worked for just 11 days in August, 2005. It was concluded that his services were for more than 240 days and he could not have been terminated from service without retrenchment compensation. Further as per the statement produced by the Management, the workman had worked from 6.5.2003 to August, 2005 i.e. for about two years. As retrenchment compensation of 15 days pay is required to be given for one year of service, so for two years, pay of one month was required to be given. As the maximum salary of the appellant was ₹ 2375/- for May, 2005, he was held entitled to ₹ 2375/- as retrenchment compensation. The Ld. Tribunal

accepted the stand of the Management that there was no post vacant with it, hence, he could not be reinstated in service.

6. In the writ petition filed by the appellant, the Award was modified. Taking note of the fact that the appellant had worked from 2003 to 2005 i.e. roughly two years, compensation @ ₹ 50,000/- per year i.e. ₹ 1,00,000/- in total along with interest @ 7% per annum was granted.

7. Ld. Counsel for the appellant has asserted that instead of awarding compensation, the appellant ought to have been directed to be reinstated in service with full back wages.

8. The stand of Ld. Counsel for the appellant cannot be accepted. It has been held by Hon'ble the Supreme Court in various cases that reinstatement is not to be directed as a matter of course in all cases of violation of Section 25-F of the Act. Depending on the facts of a case, adequate compensation can also be awarded.

9. In ***Mahboob Deepak v. Nagar Panchayat, Gajraula, (2008) 1 SCC 575***, Hon'ble the Supreme Court held that since the appellant had worked only for a short period, interest of justice would be subserved if the direction for reinstatement was modified and compensatory payment of ₹ 50,000/- in lieu thereof directed to be substituted. Similarly, in ***Sita Ram v. Moti Lal Nehru Farmers Training Institute, (2008) 5 SCC 75***, the Court took into consideration the period during which the service was rendered by the workman and instead of reinstatement directed a lump sum payment of ₹ 1,00,000/- in lieu thereof. Similarly in ***Bhavnagar Municipal Corpn. v. Jadeja Govubha Chhanubha, (2014) 16 SCC 130***

also compensation was directed to be paid.

10. In the instant case, the petitioner was employed on daily-wage basis w.e.f. 5.5.2003. He served intermittently, remained absent in June, 2003, then again from August, 2003 to October, 2003 and again from 5.12.2003 to 7.4.2004. Considering the nature of his appointment and the period of his service, which, at most, is two years with large periods of absence, in the facts and circumstances of this case, we deem it appropriate that ends of justice would be met if the appellant is awarded compensation of ₹ 2,00,000/-. i.e, one lac for every year of service. Ordered accordingly.

11. With the aforesaid modification of the judgment of the Ld. Single Judge, the present appeal is disposed of.

**(RAJESH BINDAL)**  
**JUDGE**

**(HARINDER SINGH SIDHU)**  
**JUDGE**

**March 23, 2017**

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Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No