

Sr.No.222

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

LPA-383-2016(O&M)

Date of Decision: 02.11.2017

The Civil Surgeon Ch.Bansi Lal Civil Hospital, BhiwaniAppellant

VS.

Smt. Nirmla and another

...Respondents

CORAM HON'BLE MR. JUSTICE MAHESH GROVER

HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI

Present:- Ms. Kirti Singh,DAG, Haryana.
None for respondent no.1.

-.-

MAHESH GROVER, J (ORAL)

CM-806-LPA-2016

For the reasons mentioned in the application, delay of 28 days
in filing the appeal is condoned.

CM stands allowed.

Main Case

The respondent – workman had raised an industrial dispute
questioning the termination of his services.

The Labour Court accepted the plea to hold that the termination
was contrary to the provisions of the Industrial Disputes Act, 1947 and the
order of reinstatement with continuity of service, which was challenged
before the Writ Court, had met with the same fate.

Before us, learned counsel for the appellant contends that

LPA-383-2016(O&M)

-2-

looking at the tenure of service of the respondent – workman, reinstatement was not a feasible course and instead compensation should have been awarded particularly when there was a delay of two years and seven months in raising the demand.

We had issued notice of motion to the respondents but there had been default of appearance on behalf of respondent no.1 on the previous date of hearing which we condoned by granting him last opportunity to make his submissions. Today again no one is present.

After hearing the learned counsel for the appellant and noticing that the engagement of the respondent no.1 was merely for over one and half year i.e from 28.06.2009 to 12.02.2011 (one year and six months) and the fact that the demand was raised after two years and seven months, we are of the opinion that reinstatement as an automatic course as applied by the learned Labour Court and the learned Single Judge would be an erroneous course in view of law laid down in **BSNL V. BHURUMAL 2014 AIR (SC) 1188**, wherein it has been held that grant of reinstatement with full back wages cannot be applied mechanically in all cases. We think it proper that instead compensation would have been a more appropriate course to be adopted by the Courts.

Therefore, while accepting the appeal, we modify this judgment of the learned Single Judge by setting aside the mandate of reinstatement of the workman with continuity of service but grant him compensation of Rs.1,00,000/-. If the amount is not paid within a period of two months from today, the same shall carry interest @ 7% p.a from the date of order by the Tribunal till its realisation.

LPA-383-2016(O&M) -3-

The appeal is disposed of accordingly.

(MAHESH GROVER)
JUDGE

02.11.2017
mamta

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No