

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

LPA No.42 of 2017 (O&M)

Date of Decision :13.02.2017

State Bank of Patiala

....Appellant

Versus

Central Government Industrial Tribunal-cum-
Labour Court-I, Chandigarh and another

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

....

Present: Mr. A.K.Ahuja, Advocate and
Mr. C.B.Goel, Advocate
for the appellant.

Mr. Saurav Khurana, Advocate
for the caveator/respondent No.2.

....

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the
learned Single Judge dated 06.12.2016.

The workman-respondent No.2 raised an industrial
dispute questioning the termination of his services on the ground
of violation of provisions of the Industrial Disputes Act,1947
which resulted in an award in his favour warranting reinstatement
along with back wages equivalent to 2/1-2 months of the
earnings. The appellant preferred a writ petition which was
dismissed and the award of the Labour Court upheld which is
now the cause of grievance to the appellant.

It is contended by the learned counsel for the appellant that the workman was engaged on part time basis which would entitle him to reinstatement no matter how long the duration of engagement is. In support of his contention reliance has been placed on Full Bench of this Court in CWP No.4660 of 1999 (Gobind v. Presiding Officer, Labour Court and another), decided on 22.05.2008, particularly para 37 which is reproduced as under :

“37. On similar analogy, in the case of Electronics Corporation of India Ltd.(supra), the Service Engineers employed by the Corporation were held not employees of the Corporation.

Analysis of the ratio of the judgments, referred to above, clearly indicates that the status of ad hoc/temporary employees is only contractual in nature. Termination of their services on completion of the work assigned to them and as per employment contract, would not amount to retrenchment. We feel that same situation will prevail so far as part time worker is concerned. His position is rather unsecure as compared to a daily wager and temporary employees. The regular employees are required to work for a fixed and regular hours in a day, as may be prescribed by the

employer or as per law on the subject. Invariably daily wagger and casual employees are also supposed to adhere to working hours in a day as may be notified for a particular industry/establishment. However, in the case of a part time worker, there is no qualification and age prescribed; they can be engaged by the local management as per requirement; they are to work only for part of the day; may not be subject to any disciplinary control; they are not subject to any retirement age; cannot be transferred and there is no bar to carry on any other avocation or occupation.”

The respondent No.2 is on caveat.

We have heard the learned counsel for the parties.

The period of engagement as claimed by the workman in his demand notice from 1994 to February 2002 is not in dispute as no attempt has been made by the learned counsel for the appellant to even question it. It is only the nature of engagement which is disputed. The workman has set up his plea of being engaged on daily wages whereas the appellant states that he was engaged purely on part time basis. The further case set up to justify the termination of the services of the workman is that the branch office which had engaged the workman had been shifted out thereby extinguishing the need.

We have perused the award and the judgment of the learned Single Judge and find that there is absolutely no material to suggest that the workman was engaged on part time basis. Similarly, there is absolutely no evidence to fortify the stand of the appellant of shifting of the branch office. The appellant failed to contradict any of the pleas raised by the workman by producing cogent evidence and except for filing of an affidavit no attendance register/muster-roll or any evidence which could have substantiated their plea of the nature of engagement was ever brought on record.

We, therefore, have no material before us which could persuade us to form a different opinion than the one arrived at by the Labour Court and the learned Single Judge. Rather, a closer scrutiny of the matter shows a dishonest approach of the appellant. In the affidavit furnished before the Labour Court (on record as P-6 to the writ petition) a specific plea was taken denying the relationship of employer and employee altogether. This to our mind is a completely dishonest plea raised by the appellant on the affidavit of their Branch Manager and cannot be ignored if the sanctity of the affidavit before courts is to be upheld. We notice with anguish that it is a bank which has pitted its might against a workman to deny a straightforward plea to the claim of the workman. Initially they denied the engagement

altogether but subsequently went on to redefine the engagement as being part time. Apart from this the workman was engaged after his name was requisitioned from Employment Exchange which is an acknowledged mode of public employment. If these facts are construed along with the period of engagement of 8 years, we have no hesitation to conclude that the respondent/workman has to be reinstated in service.

No ground to interfere.

Dismissed.

(MAHESH GROVER)
JUDGE

13.02.2017
dss

(SHEKHER DHAWAN)
JUDGE

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