

102.

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

CIVIL REVISION-6821-2016 (O&M)

Date of decision:23.03.2018.

KULDIP KUMAR

... Petitioner

Versus

ENGINEER IN CHIEF HARYANA, PWD (B&R) BRANCH,
CHANDIGARH & ANOTHER

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. N.K. Nagar, Advocate, for the petitioner.

Mr. Siddharth Sanwaria, DAG, Haryana.

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present revision petition under Article 227 of the Constitution of India impugning the order dated 30.07.2016 passed by learned Civil Judge (Junior Division), Chandigarh (while acting as Executing Court) whereby the Executing Court has disposed of the execution proceedings having been satisfied on the premise that the Executing Court cannot go beyond the judgment and decree and pursuant to the award dated 24.03.1998 passed by the Labour Court, the petitioner has already been reinstated in service and has been paid a lumpsum compensation of ₹10,000/-.

Learned counsel for the petitioner has argued that the Executing Court has rejected the claim of the petitioner with regard to his entitlement to wages w.e.f. the date of his submission of the joining report and the petitioner should have been granted wages from 10.09.1998, the date on

which he submitted joining.

Whereas it is the consistent stand of the respondents that after the culmination of proceedings before the Hon'ble Apex Court, all sincere efforts were made to contact the petitioner, but since the Department did not have a valid address of the petitioner where he could be contacted, therefore, there is no illegality on the part of the respondents. Moreover, the petitioner has not come forward to invoke the proceedings as available to him under Section 17-B of the Industrial Disputes Act. Therefore, it is but presumed that the petitioner was gainfully employed. Even otherwise, no material has been placed on record by the petitioner that he was not gainfully employed.

On 07.03.2018, this Court passed the following order:-

“Learned counsel for the petitioner states that the award dated 24.03.1998 is required to be implemented in its spirit. The respondent-State remained unsuccessful to set aside the award even upto Hon'ble Supreme Court. The civil writ petition filed by the respondent-State against the award dated 24.03.1998 was dismissed on 29.11.2001 and the Special Leave to Petition against the judgment dated 29.11.2001 passed by this Court, was dismissed by Hon'ble Supreme Court on 18.09.2002. But no efforts have been made by the respondent-State to intimate/inform the petitioner to join his service.

Learned counsel for the petitioner further states that the petitioner restricts his claim only to the extent of continuity of service and he is ready to forego the monetary benefits.

Learned State counsel states that efforts were made to locate the address of the petitioner, but they could not succeed.

This plea of learned State counsel does not carry much weight when the State has every means of

communications. Therefore, the Secretary, PWD (B&R) Branch, Haryana is directed to come present on the next date of hearing i.e. 23.03.2018.”

Pursuant to aforesaid order, Shri Alok Nigam, IAS, Additional Chief Seretary to Government of Haryana, Public Works Department, Chandigarh, is present in Court. He has placed on record his affidavit filed by way of CM-6033-2018 giving all possible details as regards the efforts made by the State, so as to locate and serve the petitioner about the culmination of proceedings. Along with the affidavit, an office order dated 16.03.2008 (Annexure R6) has also been attached, which reads as under:-

“In partial modification of the office Order No.264/cash dated 04.11.2015, the services of Sh. Kuldeep Kumar is hereby re-instated with continuity of services from 09.04.1994, on daily wages as Waterman in this department. He will be paid daily wages as per letter No.DC/DN/F-20/2015/13387-89 dated 24.08.2015 on the following:-

1. His services are liable to be terminated at any time without any notice.
2. No travelling allowance will be admissible to him for joining duty.

This order is to be issued as per award announced by the Hon'ble Labour Court (U.T.) Chandigarh vide dated 24.03.1998.

Sd/-
Registrar
For Engineer-in-Chief, Haryana.
PWD B&R Branch, Chandigarh.”

As per the order Annexure R-6 dated 16.03.2018 reproduced above, the award dated 24.03.1998 passed by Labour Court in favour of the petitioner stands implemented and no further relief survives to the petitioner.

Accordingly, present revision petition is disposed of having been rendered infructuous.

So far as the arguments raised by learned counsel for the petitioner that considering the long services rendered by the petitioner, his services be regularized, this prayer cannot be accepted for the reason that no such direction has been issued by the Tribunal, while passing the award. However, the petitioner is at liberty to make such representation which may be considered by the respondents strictly in accordance with the policy and the law.

(HARI PAL VERMA)
JUDGE

23.03.2018
sanjeev

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