

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

2069

**CWP-13680-2004 (O&M)
Date of decision:25.04.2018**

State of Haryana

...Petitioner

Versus

Rajbir Singh and another

.... Respondents

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

Present: Mr. G.S.Wasu, Addl. A.G. Haryana.

Mr. R.S. Mamli, Advocate for the respondents.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has challenged the award passed by the labour court dated 21.10.2003 (Annexure P-5).

2. Respondent-workman has rendered service from September, 1995 to August, 1996. Feeling aggrieved by the dispensation his services he raised an industrial dispute. Labour court passed award in favour of the respondent on 21.10.2003 while extending the benefit of reinstatement with continuity of service and with all other consequential service benefits however, without back wages. Respondent-workman filed a petition questioning the portion of the award in respect of denial of back wages which was subject matter in CWP No. 7671 of 2004 and it was decided on 07.04.2014 to the extent that respondent is not entitled to back wages. Both

the parties have not apprised this court while deciding CWP No. 7671 of 2004 to the extent that State's writ petition i.e. present petition is pending consideration. Had they brought to the notice of this court relating to pendency of the present petition court would have decided both the matter together.

3. Learned counsel for the petitioner submitted that respondent has worked only from September, 1995 to 1996 and his services have been dispensed way back in the year 1996. Therefore, question of reinstatement with consequential benefits in the year 2003 may not be appropriate in view of the Supreme Court decision rendered in case titled as ***Bharat Sanchar Nigam Limited versus Bhurumal***, reported in (2014) 7 SCC 177.

4. On other other hand learned counsel for the respondent submitted that in CWP No. 7671 of 2004 award passed by the labour court has been upheld. Therefore, in the presence of the State counsel, present petition has become infructuous. It was also submitted that State have not preferred any appeal against the order passed in CWP No. 7671 of 2004 decided on 07.04.2014.

5. Heard the learned counsel for the parties.

6. Crux of the matter in the present petition is whether the present petition could be decided on merit or not in view of the decision rendered in CWP No. 7671 of 2004. Undisputed facts are that award was passed in favour of the respondent-workman to the extent of reinstatement with continuity of service and consequential benefits except back wages. Respondent aggrieved by the denial of back wages preferred writ petition.

Therefore, CWP No. 7671 of 2004 is concerned it is restricted to only whether respondent-workman is entitled to back wages or not? In other words, this court has not examined validity of the entire award in CWP No. 7671 of 2004. In view of these facts and circumstances, contention of the learned counsel for the respondent to the extent that present petition has become infructuous in view of the order passed in CWP No. 7671 of 2004 decided on 07.04.2014 cannot be accepted. Accordingly, the aforesaid contention is hereby rejected.

7. Merits of the case is concerned, respondent has hardly worked from September, 1995 to August, 1996 and his services have been dispensed in the year 1996. Further there is interim order operating since 09.09.2004. In other words, award passed by the labour court is yet to be implemented. Therefore, it is not appropriate to direct the petitioner to reinstate the respondent-workman with consequential benefits. In view of the decision of Supreme Court in *Bhurumal's* case (supra) it is appropriate that respondent-workman is entitled to compensation for having served for a period of about one year. Respondent is entitled to compensation of Rs.50,000/-. Compensation shall be paid within a period of 3 months from today failing which respondent is entitle to 6% interest from 09.09.2004 till payment is made.

25.04.2018

pooja saini

Whether speaking/reasons

Whether Reportable:

**(P.B.BAJANTHRI)
JUDGE**

Yes/No

Yes/No

