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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**1. CWP-9683-1995
Date of Decision : August 09, 2018**

M.D. University

.... Petitioner.

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak and another.

.... Respondents.

2. CWP-10510-1999 [O&M]

Om Parkash

.... Petitioner.

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak and another

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Vikrant Sharma, Advocate
for the petitioner in CWP No. 9683 of 1995 and
for respondent No.2 (MDU) in CWP No. 10510-1999

Mr. J.C.Malik, Advocate
for the petitioner in CWP No. 10510-1999
and for respondent No. in CWP No. 9683 of 1995

SHEKHER DHAWAN, J.

Challenge in both these writ petitions is to the award dated
10.02.1995 (Annexure P/5) passed by Industrial Tribunal-cum-Labour

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Court, Rohtak (for short, “the Tribunal”) whereby, Om Parkash, workman was held entitled to reinstatement with continuity of service with 50% back wages. CWP No. 9683 of 1995 has been filed by Maharshi Dayanand University (MDU), Rohtak (for short, “the management”) challenging the impugned award whereas CWP No. 10510 of 1999 has been filed by workman – Om Parkash seeking full back wages instead of 50% as awarded by the Tribunal.

2. Facts relevant for the purpose of decision of this writ petition; that the workman worked with the management i.e. Maharshi Dayanand University for the period from 28.11.1990 to 28.11.1991. On that day, his services were terminated without assigning any reason and without payment of any compensation under Section 25-F of the Industrial Disputes Act, 1947 (for short “**the Act**”). The petitioner-workman raised industrial dispute and on the basis of reference having been made by the State, the Tribunal answered the reference in favour of the workman to the extent that he was held entitled to reinstatement with continuity of service with 50% back wages. The petitioner-workman is aggrieved that as his termination was held to be illegal, he was entitled to full back wages as he never remained employed during the period of his reference before the Tribunal and thereafter as well.

3. The grievance of the management is that it was a case of contractual appointment for a short duration of one year only and one expiry of this term, he was not allowed to continue in service and his case is covered under Section 2(oo) (bb) and not under Section 25-F of the Act.

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4. The stand taken by the petitioner-workman on this point is that his appointment was on regular basis and was against a regular post. However, learned counsel representing the management contended that the appointment of the workman was not by adopting due procedure.

5. The learned Tribunal has already held the termination of the workman to be illegal and ordered for reinstatement, with continuity of service and 50% back wages.

6. During the pendency of above mentioned writ petitions, the workman moved a Civil Misc. Application No. 14697 of 2016 in CWP-10510-1999 seeking withdrawal of the writ petition on the ground that he had arrived at a settlement with the University that his services may be regularized and he will not claim any back-wages as awarded by the Tribunal. An affidavit (Annexure A/1) in this regard was also filed by the workman and thereafter his services were regularized on 12.9.2014 vide order (Annexure A/2). But at the time of hearing, learned counsel representing the workman contended that though the workman has been reinstated with continuity of service, but he is entitled to be regularized from the year 1996 but his services have been regularized from 2003.

6. Learned counsel representing the Management (MDU) contended that the case of the workman was not covered for regularisation of his services under the policy dated 07.03.1996 rather, his services were rightly regularized w.e.f. 2003. As such, he was offered appointment and subsequently, the workman had also moved the above mentioned application for withdrawal of his writ petition thereby giving up his claim for

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back wages as well.

7. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that there is no dispute that the Tribunal has already held the termination of the workman to be illegal and ordered for reinstatement with continuity of service and 50% back wages. The workman has already been taken in job thereby regularizing his services from 2003 as he was covered under the policy dated 1.10.2003 and not under the policy of the State Government issued in the year 1996. The claim of back-wages has already been given up by the workman.

8. In view of the subsequent development having taken place, the workman has already been taken back in service and his services stood regularized by the Management w.e.f. 2003, the writ petition filed by MDU has otherwise become infructuous. The workman has already given up his claim qua back-wages.

9. Resultantly, both the writ petitions, i.e., CWP No. 9683 of 1995 filed by Maharshi Dayanand University (MDU), Rohtak challenging the impugned award and CWP No. 10510 of 1999 filed by workman – Om Parkash, have no merit and the same stand dismissed.

**(SHEKHER DHAWAN)
JUDGE**

August 09, 2018.

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes