

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

CWP-7215-1999 (O&M)

Date of Decision: 26.04.2018

Raj Pal

... Petitioner

Vs.

Union of India and others

... Respondents

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

Present : Mr. Ramesh Goyat, Advocate
for the petitioner.

Mr. Ashwani Talwar, Advocate
for respondents No.2 and 3.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has challenged the award passed by the Labour Court dated 30.12.1998 (Annexure P-11).

2. Petitioner is stated to have been appointed as a daily wager on 3.3.1986. His services were terminated on 21.2.1987. He was re-appointed through the contractor on 22.2.1987. His service was terminated w.e.f. 1.10.1987. Thus, petitioner issued a demand notice on 26.3.1988. Consequently, reference was decided by the Industrial Tribunal on 30.12.1998 to the extent that petitioner does not fulfill requisite criteria of 240 days of service. Hence, the present petition.

3. Learned counsel for the petitioner submitted that terminating the petitioner on 21.02.1987 and re-appointing him through contractor on 22.02.1987 is not in accordance with law since contractor did not have the valid licence under the statutory provision. It was also submitted that if the appointment through contractor dated 22.2.1987 is held to be bad, in that event, petitioner would be completing 240 days, if the entire service from

3.3.1986 to 1.10.1987 is taken into consideration. Thus, Labour Court has erred in not counting the complete service from 3.3.1986 to 1.10.1987.

4. On the other hand, learned counsel for the respondents submitted that reference is with reference to the date of termination dated 21.02.2017. Therefore, one cannot go beyond 22.2.1987. As on 22.2.1987 undisputedly petitioner did not complete 240 days. Hence, there is no infirmity in the award passed by the Labour Court. It was further contended that policy which is relied upon by the petitioner vide Annexure P-1 has no application. It is only a decision. That apart issue relating to consider the grievance of the petitioner with reference to Annexure P-1 dated 8.4.1987 cannot be examined by the Labour Court. At the best, petitioner should have approached the concerned authority at the relevant point of time. In view of these facts and circumstances, petitioner is not made out a case so as to interfere with the award passed by the Labour Court.

5. Heard the learned counsel for the parties.

6. Respondent is a Government undertaking company. They are accountable for appointment as well as managing the Insurance company from the date of appointment of the petitioner till date of termination and further appointing him through contractor. Such actions were taken orally by the respondent company. In other words, there is a lapse on the part of the respondent-company. When it is public enterprise company, they are accountable to the public how they are engaging the employees as well as money is being spent in the company. Therefore, there is total in-action on the part of the respondent-company in respect of engaging daily wager and further through contractor. No doubt petitioner did not complete 240 days from 3.3.1986 to 21.2.1987. However, it is to be noted that there is

relationship of employer and employee even after 22.02.1987 to 1.10.1987, even though, it is through contractor. However, such arrangement was oral. No material has been placed on record as to apprise this Court relating to engaging the services of the petitioner through contractor in accordance with the policy of the respondent-company. In view of the lapse on the part of the respondent-company and the fact that petitioner has not completed 240 days if the 1st termination dated 21.2.1987 is concerned. Petitioner's services have been dispensed way back on 21.2.1987 and further on 1.10.1987, therefore, question of reinstatement and other service benefits cannot be granted at this distance of time. In view of the settled law by the Supreme Court in the case of **B.S.N.L** v. **Bhurumal**; (2014) 7 SCC 177 and petitioner would be entitled to compensation. Respondents are hereby directed to pay compensation of Rs.1,00,000/- to the petitioner within a period of three months from today. Failing which petitioner is entitled to interest @ 6% per annum from today.

7. Petition stands disposed of accordingly.

26.04.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**