

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

1458

**CWP-12976-2005 (O&M)
Date of decision:20.04.2018**

State of Haryana

... Petitioner

Versus

Shri Sisan Ram and another

.... Respondents

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

Present: Mr. Rohit Arya, AAG, Haryana.

Mr. Vikas P. Singh, Advocate for respondent No.1.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has challenged the award passed by the Labour Court dated 08.02.2005 (Annexure P-12).

2. Respondent-workman was stated to have been appointed as a workman in the month of June, 1986 and he was allowed to work up to February, 1988. Respondent raised demand notice on 13.03.1990 and it was rejected on 18.07.1990. Thereafter, he was pursuing by making necessary representation in the year 1995. Since it was not materialized consequently, he has made necessary application for restoration of the demand notice and seeking recalling the order dated 18.07.1990 on 12.08.1999. It is learnt that pursuant to the respondent's application dated 12.08.1999 reference was ordered by the Government. Thus, reference No. 83 of 2000 was decided by the Labour Court on 08.02.2005 in favour of the respondent. Hence the present petition by the department.

3. Learned counsel for the petitioner submitted that on the ground of limitation respondent has not made out a case. Even though they have taken such contention before the labour court. Labour court has not apprised and so also not dealt the limitation issue while deciding the reference No. 83 of 2000 on 08.02.2005. On this ground alone labour court award dated 08.02.2005 is liable to be set aside. It was also contended that the respondent has hardly worked from June, 1986 to February, 1988. Therefore, passing award of reinstatement with continuity of service and 50% back wages from 13.03.1990 is highly arbitrary and illegal so also contrary to Supreme Court decision to the extent that *ad hoc* employee is not entitled to reinstatement after lapse of so many years from the date of dispensing his services.

4. Per contra learned counsel for the respondent-workman submitted that question of limitation is not attracted in the present petition for the reason that pursuant to the respondents application dated 12.08.1999 competent authority has passed an order of reference No. 83 of 2000. Thereafter, matter was decided by the Labour Court on 08.02.2005 with reference to documents available. One of the respondent stated that there is no relationship of employee and employer. On the other hand, other respondents had admitted while issuing salary certificate which reveals that respondent was working with the first respondent. Same has been disputed by the respondent to the extent that he has worked with second respondent. Irrespective of whether he has worked or not the labour court has considered the evidence of WW1 to the extent that respondent has worked

for 240 days. Therefore, there is no infirmity in the award passed by the Labour court dated 08.02.2005 (Annexure P-12).

5. Heard the learned counsel for the parties.

6. Undisputedly, there is delay and latches on the part of the respondent in not pursuing rejection of demand notice dated 18.07.1990. For the first time, he has made necessary application for recalling order dated 18.07.1990 on 23.03.1995. Since the same was not acted upon by the competent authority he had submitted one more application on 12.08.1999. Thereafter, reference was made. Having regard to the conduct of the respondent in not pursuing the rejection of demand notice timely he is not entitled to reinstatement with continuity of service and 50% back wages as awarded by the labour court on 08.02.2005. In view of the case titled as ***Bharat Sanchar Nigam Limited versus Bhurumal*** reported in (2014) 7 SCC 177 respondent is entitled to compensation having regard to the service rendered by him with the petitioner during the period from June, 1986 to February, 1988. Appellant is hereby directed to pay compensation of Rs.2 Lacs. To that extent award of the labour court dated 08.02.2005 (Annexure P-12) is modified.

7. With the above observation, CWP stands disposed of.

20.04.2018

pooja saini

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

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No