

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-19544-2002 (O&M)

Date of Decision:-21.04.2018.

State of Haryana through Executive Engineer GWI P.H. Division, Sonipat

.....Petitioner

Versus

Rajbir Singh and others

.....Respondents

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

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

Mr. Girish Agnihotri, Senior Advocate with
Mr. Saroj Malakar, Advocate for respondent No.1.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner-State of Haryana have challenged the validity of the award passed by the Labour Court dated 30.07.2002 (Annexure P-5).

2.) Respondent was appointed on daily wage basis on 16.08.1992 and he has worked up to 12.01.1994. He raised demand notice on 17.9.1996. Labour Court proceeded to pass award in favour of the respondent. Hence, the present petition.

3.) Learned counsel for the petitioner submitted that having regard to the length of service rendered by the respondent read with the number of days stated in Annexure P-2 to the extent that respondent has not completed 240 days as on the date of termination. The said issue has not been apprised

by the Labour Court while passing award in favour of the respondent. Therefore, respondent has not made out a case so as to seek for reinstatement with continuity of service and back wages.

4.) *Per contra*, learned counsel for the respondent submitted that during pendency of the present petition, respondent has been taken back to duty. In other words, portion of the award passed by the Labour Court has been implemented on 20.09.2006. From 2006, respondent is working and disturbing the status of the respondent at this distance of time may not be fair. It was also submitted that similarly situated persons whose services have been regularized, therefore, no interference is called for in respect of award dated 30.07.2002 (Annexure P-5) passed by the Labour Court.

5.) Heard the learned counsel for the parties.

6.) No doubt respondent-workman has rendered service less than 2 years and so also it is evident that he has not completed 240 days with reference to Annexure P-2. At the same time one has to apprise the later development to the extent that during pendency of the above writ petition, petitioners have implemented portion of the award to the extent of reinstating the respondent on 20.09.2006 and it has not been disturbed even to this day. In other words, respondent is stated to have been working even to this day. In view of these facts and circumstances, no interference is called for insofar as reinstatement ordered by the Labour Court. In respect of the back wages is concerned, respondent is not entitled for the reasons that he has hardly worked from 16.08.1992 to 12.01.1994 as is evident from Annexure P-2. That apart he has raised demand notice after more than 2 years from the date of termination. Accordingly, award passed by the

back wages.

7.) Petition stands allowed in part.

(P.B. BAJANTHRI)
JUDGE

April 21, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.