

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

**1. CWP-12885-2009**

|                         |     |                 |
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| State of Punjab         | Vs. | ... Petitioner  |
| Bhoop Singh and another |     | ... Respondents |

**2. CWP-6955-2010**

|                            |     |                 |
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| Bhoop Singh                | Vs. | ... Petitioner  |
| State of Punjab and others |     | ... Respondents |

**Date of Decision:08.02.2018**

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

Present : Mr. Rana Harjasdeep Singh, A.A.G. Punjab.

Mr. Somesh Gupta, Advocate for the respondent-workman.

**P.B. BAJANTHRI J. (Oral)**

Both the afore-mentioned writ petitions have been filed against the award dated 17.11.2008; one is filed by the State of Punjab and another is filed by the respondent-workman.

Respondent-workman was appointed on daily wage basis at Toll Tax during the period from 1.4.1983 to 24.4.1998. His services were transferred to Amritsar on 24.4.1998. Thereafter, his services have not been taken by the officials at Amritsar. Respondent-workman keep on making representation from time to time. However, the same has not been entertained by the officials of the State of Punjab. Thus, respondent-workman raised a demand notice on 1.5.2002. The award has been passed by the Labour Court on 17.11.2008 to the extent of reinstatement without back wages is under challenge. While ordering notice of motion, Stay was

granted on 24.8.2009. When things stood thus, even if respondent-workman was in service, he would have attained the age of superannuation and retired from service in the month of August 2014.

Learned counsel for the State submitted that respondent-workman remained absent for about 1340 days during the intervening period from 1.4.1983 to 24.4.1998. He has failed to report at the transfer place. Thereafter, there is delay in raising demand notice. In view of these facts and circumstances and the fact that his services were not regularized on par with the other similarly situated persons on the score that respondent had not completed 10 years of experience with reference to the policy dated 28.5.1998 relating to regularization of daily wagers. Thus, Labour Court has failed to appreciate these factual aspects in passing the award. Hence, the present petition.

Per contra, learned counsel for the respondent-workman submitted that as and when he was transferred from Pathankot to Amritsar, he had reported for duty. However, duty report has not been accepted by the concerned official. Consequently, he had submitted number of representation for which there was no response whereby workman raised a demand notice. If the respondent-workman abandoned the service, in that event, concerned authority would have issued a notice recalling the service of the respondent-workman having regard to the service rendered by the respondent-workman from 1.4.1983 to 24.4.1998. Thus, there is in-action on the part of the State. Consequently, Labour Court has rightly directed for reinstatement. However, Labour Court has failed to appreciate that he is entitled for back-wages and continuity of service. Therefore, he has filed cross petition insofar as denial of back wages and continuity of service.

Heard learned counsel for the parties.

Labour Court has erred in granting benefit of reinstatement to the respondent-workman for the reasons that there was inordinate delay of two years in raising demand notice i.e. from the date of issuance of transfer order. Respondent-workman has not filed any litigation insofar as implementation of the transfer order. On the other hand, respondent-workman has taken a stand that services have been terminated. Respondent-workman is not entitled for regularization in view of the decision taken by the State-Department to the extent that he remained absent for 1340 days during the intervening period from 1.4.1983 to 24.4.1998 read with the policy relating to regularization dated 28.5.1998 to say that for regularization daily wage should complete 10 years of service. If 1340 days are excluded, respondent-workman would not fulfill the condition. It is also to be noted that there is in-action on the part of the official of the State since no material has been produced by them to the extent that as and when respondent-workman has not reported at the transfer place, they have not said that respondent-workman has not reported pursuant to the order of transfer with any material. Having regard to the length of service i.e. from 1.4.1983 to 24.4.1998, Officials of the State should have issued show case notice asking him to report for duty. No such action has been taken. Therefore, award passed by the Labour Court is modified to the extent of reinstatement into service to that of compensation since respondent-workman has rendered service from 1.4.1983 to 24.4.1998. Therefore, State of Punjab is hereby directed to pay compensation of Rs.3 lacs to the respondent-workman within a period of three months from today. Failing which respondent-workman is entitled to interest @ 6% per annum from

today.

Petition stands disposed of.

08.02.2018

rajeev

(P.B. Bajanthri)  
Judge

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| Whether speaking/reasoned | Yes/No |
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| Whether reportable | Yes/No |
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