

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

201

**CWP-3531-2006 (O&M)
Date of decision:06.03.2018**

St. Thomas School

...Petitioner

Versus

Presiding Officer, Labour Court, Gurdaspur and another

.... Respondents

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

Present: Mr. Sarbjeet Khaira, Advocate for the petitioner.

None for respondent No.2.

P.B. BAJANTHRI, J. (ORAL)

In the present writ petition, petitioner has challenged the award passed by the Labour court dated 04.10.2005 (Annexure P1). Respondent-workman was appointed as a Physical Instructor on 01.05.1988. He has worked up to 26.04.1991. His services were terminated illegally without there being compliance to Section 25-F of the I.D.Act.

2. Learned counsel for the petitioner submitted that respondent was a temporary employee. Therefore, retrenchment formalities have been completed by paying a sum of Rs.644/- on account of notice pay, Rs.90/- on

account of non-availed leave, Rs.966/- on account of vacation salary and Rs.1700/- as salary on account of extra charges in lieu of his dismissal from service. Labour court failed to appreciate these factual aspects in respect of compliance to retrenchment formalities. It was also submitted that he was irregular, habitual of availing leave without leave application, non-punctual, quarrelsome and was working against the interest of School. These issues have not been appreciated by the labour court while passing award in favour of respondent. Thus, labour court erred in the award dated 04.10.2005.

3. Despite giving sufficient time there is no representation on behalf of the respondent.

4. Heard learned counsel for the petitioner.

5. Perusal of the award it is evident that petitioner-School has terminated respondent-workman's services on the allegations that he was irregular, habitual of availing leave without leave application, non-punctual, quarrelsome and was working against interest of school. Therefore, requirement of issuance of show cause notice and seeking his explanation for the alleged mis-conduct stated to have been committed by the respondent was attracted. The procedure known to the law has not been complied by the petitioner. In other words, on the allegations against the respondent his services have been terminated without hearing him. Supreme court time and again held even if temporary employee's services is to be terminated minimum procedure of hearing should be complied. In the present case there is no compliance to such procedure. Labour court has

taken note of relating to non-compliance of retrenchment compensation. So also there is violation of Section 25-F of the I.D.Act. In view of these facts and circumstances, petitioner has not made out a case so as to interfere with the award passed by the labour court dated 04.10.2005 (Annexure P1).

6. Accordingly, CWP stands dismissed.

06.03.2018

pooja saini

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

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No