

CWP No.1148 of 2013(O&M)

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

CWP No.1148 of 2013(O&M)

Date of Decision: 25.01.2018

BCH ELECTRIC LTD.

....Petitioner

Versus

PRESIDING OFFICER AND ANOTHER

....Respondents

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

Present: Mr. Adarsh Jain, Advocate
for the petitioner.

Mr. A.P. Bhandari, Advocate
for respondent No.2.

P.B. BAJANTHRI, J.(Oral)

In the instant writ petition, petitioner has challenged the award dated 27.09.2012 (Annexure P1) passed by Labour Court. During pendency of this writ petition, respondent No.2-Lala Ram died on 25.02.2014.

Deceased-Lala Ram was appointed as a Driver in the month of October, 1996 and his services had been dispensed with effect from 26.11.2002, thus, he raised industrial dispute. Labour Court decided the reference No. R/483/2003 on 27.09.2012 in favour of the deceased-Lala Ram to the extent that he is entitled for reinstatement in service with continuity alongwith 50% back wages from the date of filing the demand notice. Further cost of Rs.1000/- had been imposed. Thus, the petitioner is aggrieved by the award. Hence, the present petition.

Learned counsel for the petitioner vehemently submitted that there is no relationship of the employer and employee. No documents have been made available relating to order of appointment, Employees State Insurance and Provident Fund. Further evidence of MW1-Deepak Vashist

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Manager who has appeared and adduced evidence that there is no relationship of employer and employee. Therefore, Labour Court has erred in appreciating the evidence adduced by MW1. In so far as, WW2-P.V. Sudharshan is concerned, he was ex-employee of the petitioner who had certain grudge against the company, therefore, he has issued certificate to the respondent stating that he was working with the petitioner since October, 1996. In other words, WW2 has created the document in order to favour the respondent. Further, the matter relating to Provident Fund upon though a favourable order was with the respondent, the same has been set aside by the Appellate Authority in an appeal which is evident that there is no relationship of the employer and employee.

Learned counsel for the respondent resisting the petitioner's claim submitting that WW2- Sh. P.V. Sudarshan, who was employee of petitioner, had issued a certificate that the respondent was working as a driver since October, 1999 as is evident from Annexure R1 dated 15.07.2002. The Labour Court has appreciated evidence and come to the conclusion that there was a relationship of employer and employee and further extended the benefit of reinstatement with the continuity of service alongwith 50% back wages, having regard to the conduct of the petitioner costs of Rs.1000/- was also imposed on the petitioner. Thus, the petitioner has not made out any case so as to interfere with the award passed by labour Court. It was further submitted that in view of the death of Lala Ram, legal heirs of Lala Ram are entitled to compensation instead of reinstatement.

Heard learned counsel for the parties and perused the paper book.

From perusal of the award, it is crystal clear that evidence of

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WW2- Sh. P.V. Sudarshan has taken into consideration. Which is Annexure R1 a certificate issued on 15.07.2002 by Sh. P.V. Sudarshan (WW2) on behalf of the petitioner-company. If the petitioner contention is that Sh.P.V. Sudarshan had certain grudge against the petitioner-company and issued such a certificate behind the back of the petitioner, in that event petitioner has not taken any action against Sh. P.V. Sudarshan to the extent of filing a criminal case etc. At the same time, the petitioner's conduct in so far as rectifying the Provident Fund order which was in favour of the respondent would not change the status of the deceased employee. At the best he may not entitle to Provident Fund.

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.

In view of the death of the respondent-Lala Ram, award passed by the Labour Court is required to be modified. It is modified to the extent that legal heirs of the respondent-Lala Ram are entitled to sum of Rs.4 lacs as compensation, compensation shall be disbursed by the petitioner within the period of four months from today, failing which legal heirs of Lala Ram are entitled to interest @ 6% per annum from today on the compensation amount.

[P.B. BAJANTHRI]
JUDGE

January 25, 2018
rashmi

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no