

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

CWP-12068-2013 (O&M)

Date of Decision:07.02.2018

Divisional Forest Officer Railway Road Karnal

... Petitioner

Vs.

Krishan and another

... Respondents

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

Present : Mr. Rohit Arya, A.A.G. Haryana.

Mr. Dharamveer Phour, Advocate for respondent No.1.

P.B. BAJANTHRI J. (Oral)

Petitioner has challenged the award passed by the Labour Court dated 15.11.2012.

2. Respondent-workman was appointed as a daily wager in the on 1.1.1995. His services were dispensed on 30.01.1997. Thus, he raised industrial dispute. Award was in favour of the respondent-workman. Hence, the present petition by the Forest Department-petitioner.

3. Learned counsel for the petitioner submitted that respondent has worked only for two years. Moreover, he has no right as a daily wager to continue in service. Labour Cout has erred in extending the benefit of reinstatement with continuity of service and 25% back wages from the date of demand notice.

4. Per contra, learned counsel for respondent-workman pointed out that award dated 15.11.2012 was implemented while reinstating the respondent on 26.4.2013. Whereas petitioner has presented this petition on 28.5.2013 in which they have not disclosed relating to implementation of the award dated 15.11.2012 upon which they have obtained interim order

i.e. Stay of award dated 15.11.2012 subject to provisions of Section 17-B of the Industrial Disputes Act, 1947 (for short “the Act”). After obtaining interim order, respondent's services have been dispensed on 22.8.2013. Thus, conduct of the petitioner in presenting this petition and obtaining interim order is contrary to the factual aspects to the extent that award was implemented on 26.4.2013. In other words, petitioner should not have insisted for interim order when they have already implemented portion of the award on 26.4.2013. They could have apprised these factual aspects at least at the later stage.

5. Heard learned counsel for the parties.

6. Having regard to the conduct of the petitioner in suppressing the factual aspects like implementation of the portion of the award dated 15.11.2012 on 26.4.2013 to the extent of reinstating the respondent and further suppressing aforesaid factual aspects in the writ petition so also while obtaining interim order and further action of removing/dispensing the respondent from service on 22.8.2013 in view of interim order dated 29.5.2013. Petitioners have not approached this Court with clean hands.

7. Accordingly, petition stands dismissed.

07.02.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**