

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

CWP-16462-2012

Date of Decision:07.02.2018

Mam Chand

... Petitioner

Vs.

Presiding Officer, Labour Court, Ambala and others

... Respondents

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

Present : Mr. Deepak Saini, Advocate for the petitioner.

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

P.B. BAJANTHRI J. (Oral)

In the instant writ petition, petitioner has challenged the award passed by the Labour Court dated 20.04.2010 (Annexure P-4).

2. Petitioner is stated to have been appointed as daily wager with the respondent-department in the year 1995 and his service were terminated on 1.1.2006. He has raised demand notice on 19.6.2006. Labour Court proceeded to pass award against the petitioner on the score that he did not complete 240 days in the year 2005-06. Thus, he has not made out a case for deciding reference in his favour.

3. Learned counsel for the petitioner submitted that for about 10 years, he has rendered service with the respondent-department. Having regard to the length of service, question of termination on 1.1.2006 would be arbitrary and illegal. Respondents have extracted work from the petitioner for nearly a decade. Consequently, Labour Court cannot draw inference that he had not completed 240 days in the year 2005-06 so as to entertain his claim would be too harsh as well as arbitrary.

4. Per contra, learned counsel for the respondents while resisting the petitioner's claim, Labour Court has examined in detail relating to the

work discharged by the petitioner. There was no continuity of service from the year 1995 to 2006. There were breaks in service. It was also submitted that when workman has not completed 240 days in the preceding year i.e. 2005-06, he is not entitled to reinstatement with consequential benefits. Thus, no inference is called for in respect of award passed by the Labour Court.

5. Heard learned counsel for the parties.

6. Undisputedly, petitioner has worked from 1995 to 2006 with number of breaks during the period from 2000 to 1.2.2005. Therefore, petitioner is not entitled for reinstatement. That apart he being a daily wager only, he will not get right automatically for reinstatement with continuity of service alongwith consequential benefits in view of the decision of the Supreme Court in the case of **B.S.N.L** v. **Bhurumal**, (2014) 7 SCC 177. Since, petitioner has rendered service from 1995 to 2006, therefore, he is entitled to some compensation. Accordingly, with reference to the principle laid down in the BSNL's case (supra), petitioner is entitled to compensation of Rs.3 lacs. The same shall be paid by the respondent-department within a period of three months from today. Failing which petitioner would be entitled to interest @ 6% per annum from today.

Petition stands disposed of accordingly.

07.02.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**