In the High Court of Punjab and Haryana, at Chandigarh

1. **Civil Writ Petition No. 10023 of 2016**

Vedpal

... Petitioner(s)

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat and Another

... Respondent(s)

2. **Civil Writ Petition No. 10064 of 2016**

Parmod Kumar

... Petitioner(s)

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat and Another

... Respondent(s)

And

3. **Civil Writ Petition No. 10111 of 2016**

Satish

... Petitioner(s)

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat and Another

... Respondent(s)

Date of Decision: 26.09.2018

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CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. Ramesh Goyat, Advocate
for the petitioner(s).

Mr. Pankaj Mulwani, Deputy Advocate General,
Haryana, for respondent No.2.

Shekher Dhawan, J.

This order shall dispose of three writ petitions i.e. CWP-10023-2016; CWP-10064-2016 and CWP-10111-2016 as in these cases, petitioners had worked with the same management i.e. respondent No.2-Executive Engineer, Public Welfare Department (Public Health), Mandal 2, Gohana Road, Sonepat. For decision of the case, facts are being taken from CWP-10023-2016.

Present writ petition is challenge to the impugned award dated 18.12.2015 (Annexure P4), passed by the learned Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat (hereinafter referred to as "learned Tribunal"), whereby petitioner was awarded lump-sum compensation of Rs.40,000/- in lieu of his reinstatement and back wages.

Petitioner herein has come with the plea that he was appointed as a workman with the respondent-industry on 01.06.1995; worked continuously till 31.03.1997 and his last drawn salary was Rs.1,548.60 ps.. His services were terminated on 31.03.1997 without issuance of any notice or payment of retrenchment compensation. Petitioner raised industrial dispute before the learned Tribunal on this ground. The management contested the case on the ground that the workman was appointed on temporary basis. He had worked for 106 days in the year 1995 i.e. from

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June, 1995 to November 1995 and for 212 days in the year 1996 i.e. from February 1996 to February 1997. The workman had not worked for 240 in any calender year and as such, petitioner is not entitled to any reinstatement or retrenchment compensation.

The learned Tribunal, after considering the material and evidence available on the file, decided the reference vide impugned award whereby petitioner was awarded lump-sum compensation of Rs.40,000/- in lieu of reinstatement with continuity of service especially keeping in view the short length of service with the management. Petitioner-workman challenged the impugned award on the ground that he was entitled to reinstatement with continuity of service as the period of his employment is not disputed. His case was duly proved before the learned Tribunal as per the statement of management witness. Learned counsel for the petitioner has placed reliance on the judgment rendered by this Court in ***Ramesh Kumar v. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat and Another (CWP-19114-2016, decided on 18.09.2018)***.

While arguing on this point, learned counsel for respondent No.2 contended that petitioner is not entitled to reinstatement or for enhancement of compensation even and placed reliance on the judgment rendered by the co-ordinate Bench of this Court in ***Kuldeep Singh v. Presiding Officer and Another (CWP-13732-2016, decided on 30.01.2018)***. Learned counsel for respondent No.2 has also placed reliance on the judgment rendered by the Hon'ble Apex Court in ***Uttaranchal Forest Development Corporation v. M.C.Joshi 2007(2) S.C.T. 562***, wherein

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industrial dispute was raised after considerable period and keeping in view the short tenure of employment, the workman was awarded lump-sum compensation only and reinstatement in service was denied.

Having considered the submissions made by learned counsel for the parties and appraisal of the record of the case and judgment rendered by the Hon'ble Apex Court in ***M.C.Joshi's case*** *(supra)* as well as the judgment rendered by the co-ordinate Bench of this Court in ***Kuldeep Singh's case*** *(supra)*, this Court is of the considered view that the facts of the case in hand are distinguishable from that of ***M.C.Joshi's case*** *(supra)* and ***Kuldeep Singh's case*** *(supra)* because in this case, period of employment is certainly admitted by the management. The learned Tribunal has rightly placed reliance upon the statement of only witness examined by the management in its evidence i.e. MW.1-Anil Kumar Rohilla, who had admitted that petitioner-workman was appointed in the department in June, 1995 and worked till 31.03.1997. He also admitted that the workman was not given any retrenchment compensation at the time of his retrenchment. He also admitted that the workman had worked for 318 days with the management. That being the case, petitioner admittedly worked for more than 240 days in the calender year. The management has not challenged the impugned award. Learned counsel for the petitioner has relied upon the judgment rendered by this Court in ***Ramesh Kumar's case*** *(supra)*, wherein reinstatement was ordered in such like cases.

In view of above, all the three writ petitions i.e. CWP-10023-2016; CWP-10064-2016 and CWP-10111-2016 are disposed of and the

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impugned award, passed by the learned Tribunal is modified and petitioners are ordered to be reinstated with continuity of service and back wages from the date of issue of their respective demand notices.

(Shekher Dhawan)
Judge

September 26, 2018
"DK"

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No

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