

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

CWP No.11283 of 2015

Date of Decision: 13.12.2018

Janak Raj

...Petitioner

Versus

Presiding Officer, Industrial Tribunal, Patiala and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sandeep Lather, Advocate
for the petitioner.

Mr. J.S. Puri, Advocate
for respondents No. 2 and 3.

RAJIV NARAIN RAINA, J.(Oral)

1. The challenge in this petition is to the award dated August 01, 2013 made by the Presiding Officer, Industrial Tribunal, Patiala. A finding of fact has been returned that termination of services of the workman was in violation of Section 25-F of the Industrial Disputes Act, 1947 ("1947 Act").

2. Having reached that conclusion, the Industrial Tribunal denied reinstatement and in lieu thereof awarded a sum of Rs.40,000/- with interest @6% per annum from the date of passing of the award till realization. The only reason given to deny reinstatement is that the petitioner joined the services on 01.04.1983 and worked with the respon-

dent till 15.10.1987. In paras.24 to 26 of the award the Industrial Tribunal dealt with the question as to what relief the petitioner would be entitled to for violation of provisions of Section 25-F of the 1947 Act . The Labour Court referred to the following judgments to deny the relief of reinstatement with full back wages:-

Haryana State Electronics Development Corporation Ltd. v. Mamni, 2006 (2) LLJ 744 (SC), Secretary, ***State of Karnataka v. Uma Devi and others***, (2006) 4 SCC 1.

3. I find no infirmity in the discretion exercised by the Tribunal to deny relief of reinstatement and award in lieu thereof a lump sum amount of money to compensate the petitioner. This is for the reason that violation of an industrial right in section 25-F would not lead to automatic reinstatement if law and procedure of retrenchment is breached. A violation of the provisions of section 25-F of the Act, although illegal but still would not lead to automatic reinstatement as reasserted by the Supreme Court in '***Assistant Engineer, Rajasthan Development Corporation & Anr. vs. Gitam Singh***' (2013) 5 SCC 136 and ***B.S.N.L vs. Bhurumal*** (2014) 7 SCC 177. What is of concern to this Court is the award of a sum of only Rs.40,000/- which appears to be too meager when balanced with the rights of the petitioner which he may have had for reinstatement in a case of violation under Section 25-F of the 1947 Act. A few facts are necessary to notice.

4. The petitioner was appointed as a worked charged Chowkidar to serve the Corporation at a monthly salary of Rs.1231.90P. He worked for four years and six months when his services were

terminated w.e.f. 15.10.1987 by an order dated 14.09.1987. Neither notice, nor three months wages in lieu of notice or compensation was paid to the workmen at the time of termination. Unfortunately, the petitioner was misguided to approach the Civil Court for ventilation of his industrial rights. The civil suit filed on 28.07.1988 succeeded before the trial Court on 29.01.1990. The first appeal was dismissed on 03.05.2000. The second appeal carried by the Corporation to the High Court in RSA No.3472 of 2000 succeeded and the judgments and decrees of the Courts below were set aside. Liberty was granted to the petitioner to approach the Labour Court which he did and has resulted in the impugned award dated 01.08.2013. On the date of the award the petitioner was aged 61 years, therefore, reinstatement is not possible.

5. Having considered the matter thoroughly on other relief for illegal termination and on hearing the learned counsel for the respective parties at some length, this Court is of the considered view that the present petition deserves to be partly allowed to enhance compensation reasonable and adequately. For this comparable handouts in case law can be seen in cases such as ***BSNL v. Man Singh***, (2012) 1 SCC 558 in which the Supreme Court allowed compensation of Rs.2 lacs each to two workmen for services rendered on daily wages for about one year. In *Bhurumal* (Supra) the Supreme Court awarded Rs. 3 lakhs. In ***Municipal Council, Dina Nagar v. Presiding Officer, Labour Court, Gurdaspur Anr.***, 2015(1) RSJ 765 a broad rough and ready rule has been evolved by the Division Bench recommending

compensation of Rs.1 lakh to Rs.1.25 lakh for every year of completed service prior to retrenchment/termination.

6. Keeping in view the package in *Dina Nagar* case and the other cases and all the relevant considerations in mind, including time wasted in the civil suit and long lapse of time from the date of termination in 1987, I am of the view that the ends of justice will be served in case compensation is enhanced to Rs. 3 lacs as full and final settlement of the dispute in lieu of reinstatement. I would order accordingly by modifying the award of the Industrial Tribunal dated 01.08.2013 (P-8).

7. As a result of the above discussion, this writ petition succeeds partially. Reinstatement is obviously denied in the circumstances and the award is modified as far as compensation is concerned which stands substituted from Rs.40,000/- to Rs.3 lakhs. This amount shall be paid to the petitioner-workman within two months from the date of receipt of a certified copy of this order, failing which interest would run on the amount in default at the rate of 12% per annum till realization.

(RAJIV NARAIN RAINA)
JUDGE

December 13, 2018
rashmi

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>