

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

204-2

**CWP-20280-2011 (O&M)
Date of decision:15.01.2018**

Jaswant Singh

....Petitioner

Versus

Presiding Officer and another

.... Respondents

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

Present: Mr. Ashwani Bakshi, Advocate for the petitioner.

Mr. Rohit Arya, A.G. Haryana.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has challenged the award passed by the Labour court dated 29.05.2009 (Annexure P4). Petitioner's services were engaged on daily wage basis from 01.01.1993 and his services were dispensed on three occasions during the intervening period from 28.10.1996 to 28.10.1997. As and when his services were terminated he had raised demand notice and petitioner was reinstated. Ultimately on 28.10.1997 his services were terminated for which he had issued demand notice. Thus, reference has been decided by the Labour court against the petitioner. Hence the present petition.

Learned counsel for the petitioner submitted that there is violation of Section 25F of the Industrial Disputes Act, 1947. He had raised demand notice immediately within one month from the date of termination. Therefore, labour court has erred in rejecting reference.

Per contra, learned counsel for the respondents submitted that petitioner has no legal right to continue to hold the post since his initial demand itself is not in accordance with law and he was only a daily wager.

Heard learned counsel for the parties.

Perusal of the service particulars of the petitioner to the extent that he has joined service on 01.01.1993 and his services were dispensed in the year 1997 and the fact that petitioner was appointed on daily wage and it is not in accordance with law for the purpose of regular recruitment or reinstatement, one must have legal right, petitioner has no legal right to continue to hold the post. Moreover, he is out of service from October, 1997. At this juncture, it is not appropriate to reinstate him with consequential benefits. Supreme Court in the case of ***State of Madhya Pradesh and another Versus Vinod Kumar Tiwari*** reported in 2016 (16) SCC 610 in para 3 held as under:-

“3. Time and again, this court has reiterated that reinstatement is not automatic upon a finding that retrenchment is in violation of Section 25-F of the Industrial Disputes Act. In fact, this Court while issuing notice has taken note of our earlier decision in Jagbir Singh v. Haryana State Agriculture Mktg. Board.”

Thus, he is entitled to compensation of sum of Rs.1,50,000. The concerned respondent is hereby directed to pay compensation within a period of 3 months from today failing which petitioner is entitled to interest on the compensation @ 6% per annum.

With the above observation, CWP stands disposed of.

(P.B.BAJANTHRI)
JUDGE

15.01.2018

pooja saini

Whether speaking/reasons:

Yes/No

Whether Reportable:

Yes/No