

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 11458 of 2015

Date of Decision: 25.09.2018

Gurbax Singh

... Petitioner(s)

Versus

Presiding Officer, Industrial Tribunal, Amritsar and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. Pranav Chadha, Advocate
for the petitioner(s).

Mr. Amrit Paul, Advocate
for respondent No.2.

Shekher Dhawan, J.

Present writ petition for quashing of impugned award dated 15.04.2014 (Annexure P3), whereby the learned Presiding Officer, Industrial Tribunal, Amritsar (hereinafter referred to as “learned Tribunal”) has awarded lump-sum amount of compensation of Rs.30,000/- to the petitioner for the period of his employment from 07.11.2002 to 14.07.2004.

Grievance of the petitioner that his services were terminated without issuance of any notice or payment of retrenchment compensation. The management contested the case on the ground that employment of petitioner was temporary in nature and he was working on daily wages. He had worked during different periods as Carpenter and his employment was with breaks only. On these facts, learned Tribunal, after considering the entire material and facts of the case, held that petitioner was workman and

had served the management for a period of 240 days regularly and awarded lump-sum compensation of Rs.30,000/-.

Learned counsel for the petitioner mainly contended that petitioner has not been awarded reasonable compensation even though he had worked with the management for about two years and he was awarded lump-sum compensation of Rs.30,000/- only. On this point, reliance has been placed upon the judgment of Hon'ble the Apex Court in ***Sant Raj and Another v. O.P.Singla and Another 1985 AIR (SC) 617***, wherein compensation of Rs.2,00,000/- was awarded. Reliance has also been placed upon the judgment rendered by the Hon'ble Division Bench of this Court in ***Shri Bhagwan v. Presiding Officer, Labour Court-cum-Industrial Tribunal, Hissar and Others 2015(28) S.C.T. 186***, wherein compensation was enhanced to the extent of Rs.1,00,000/-.

However, learned counsel for respondent No.2 has placed reliance upon the judgment rendered by the Hon'ble Apex Court in ***The Range Forest officer v. S.T.Hadimani 2002(3) SCC 25***, wherein it was held that onus to prove 240 days of employment is upon the workman only.

Having considered the submissions made by learned counsel for the parties and taking into consideration the fact that most of the facts of the present case are not disputed that the petitioner had served the management from 07.11.2002 to 14.07.2004. Respondent-management had taken the plea before the learned Tribunal that petitioner was not covered under the definition of "workman" as he was working against temporary post and had not put in continuous service of 240 days. However, the learned Tribunal,

on the basis of evidence available on the file, rightly held that petitioner had

served the management for 240 days and his employment was continuous for 240 days in a calender year. As such, he was certainly entitled to compensation in case of termination of his services without any notice. The learned Tribunal did award compensation to the tune of Rs.30,000/-, but taking into consideration the period of employment of the petitioner from 07.11.2002 to 14.07.2004 and view taken by the Hon'ble Apex Court in *Sant Raj's case (supra)* and the Hon'ble Division Bench of this Court in *Shri Bhagwan's case (supra)*, this Court is of the considered view that fair and reasonable compensation has not been awarded to the petitioner. Accordingly, the impugned award, pronounced by the learned Tribunal, is modified to the extent that amount of compensation is enhanced from Rs.30,000/- to that of Rs.80,000/-. The enhanced compensation shall be payable within a period of two months from the date of receipt of a certified copy of this order. Thereafter, petitioner shall be entitled to receive interest at the rate of 9% per annum.

With the modifications made in the impugned award, present writ petition stands disposed of.

(Shekher Dhawan)
Judge

September 25, 2018
“DK”

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