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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-11470-2016

Date of Decision : July 05, 2018

Smt. Sona Devi

.... Petitioner.

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak and another.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr.Sandeep Parkash Chahar, Advocate
for the petitioner.

Mr.Pankaj Mulwani, DAG Haryana,
for respondent No.2.

SHEKHER DHAWAN, J.

Present writ petition under Article 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari to quash impugned award dated 23.08.2013 (Annexure P/1), whereby, Industrial Tribunal-cum-Labour Court, Rohtak awarded 50% back wages while ordering reinstatement of the petitioner.

2. Petitioner was appointed by respondent No.2 department as Beldar-cum-Mali in the month of January, 1996 and she served the respondent-Management upto 28.02.2005 and on 1.3.2005, her services were terminated. She served the respondent-department a demand notice

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dated 9.3.2005 and ultimate, reference was made to the Labour Court.

3. Respondent-Management failed to file written statement and its defence was struck off. The petitioner appeared in the witness box to prove her continuous employment and the fact that she worked for continuous period of 240 days in the preceding calendar year.

4. Labour Court vide award dated 23.08.2013 (Annexure P/1) held the termination of the petitioner in violation of provisions of Section 25-F of the Industrial Disputes Act, 1947 (for short, "the Act") and ordered for her reinstatement along with continuity of service and awarded 50% back wages from the date of demand notice, i.e., 9.3.2005. The petitioner has challenged the award, Annexure P/1 stating that she is entitled to 100% back wages.

5. At the time of arguments, learned counsel for the petitioner has fairly conceded that the petitioner has received the amount of 50% back wages and she has already been taken into service by the respondent-Management in compliance of the award, Annexure P/1. However, the petitioner was entitled to 100% back wages because her services were terminated without any ground, in violation of provisions of Section 25-F of the Act and the demand notice was issued immediately after her termination.

6. Learned State counsel representing the respondent-Management contended that the petitioner has already been taken back in service and 50% back wages have been paid and the amount has been received by the petitioner to her satisfaction and no case is made out for

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enhancement of back wages.

7. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that certain facts are not disputed that the petitioner has served the respondent-Management from January, 1996 to 28.2.2005 and her termination has already been held to be violative of provisions of Section 25-F of the Act. Vide award, Annexure P/1, she has been allowed reinstatement with continuity of service and even 50% back wages have already been paid to her in compliance with award dated 23.08.2013. Her services were terminated on 1.3.2005 and during this period, she must have been engaged in employment in any other work. Hence, no interference is called for in the award, Annexure P/1, whereby she was rightly held entitled to 50% back wages and this Court is satisfied that the Labour Court has already been taken care as far as back wages are concerned.

8. In **Union of India and others Vs. Ramchander and another, 2005 (9) SCC 365**, while dealing with award of back wages, Hon`ble Supreme Court held as under:-

“....However, the direction of the High Court for payment of entire salaries and allowances for the period they were out of service was not justified under the circumstances. The termination of the respondents was from 11.1.1995 and now a fairly long period has passed and in the meantime, the respondents must have been engaged in employment in any other work. Therefore, we direct the appellants to re-employ the respondents with 50% back wages from the date of their termination till their re-

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employment. The appellants shall re-employ the respondents within a period of one month.”

9. In view of the above, the present writ petition lacks merits and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

July 05, 2018.
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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes