

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

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**CWP-20257-2012 (O&M)
Date of decision:16.03.2018**

State of Haryana

...Petitioner

Versus

Presiding Officer and others

.... Respondents

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

Present: Mr.Rohit Arya, AAG, Haryana

Mr. Mohit Garg, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has challenged the validity of the award passed by the Labour court dated 16.12.2011 (Annexure P-4).

2. Respondent's services were engaged as a Sweeper on hourly basis. Thus, he has worked from 01.11.1998 to 11.04.2003. Learned counsel for the petitioner contended that there is no termination order or oral termination. On the other hand, respondent No.2 abandoned service. It was further contended that labour court has erred in not appreciating the nature of appointment of respondent No.2 so also with reference to demand notice dated 26.02.2003. That apart respondent is only an ad hoc appointee.

He has no right to claim over the post in view of case titled as ***Secretary, State of Karnataka and others versus Uma Devi and others*** reported in (2006) 4 SCC 1. Therefore, labour court has erred in extending the benefit of reinstatement with continuity of service with back wages w.e.f. 26.02.2003

3. Per contra, learned counsel for respondent No. 2 submitted that having regard to the fact that the petitioner has not taken any action if respondent No.2 had abandoned the services. Thus, it is evident that respondent's services have been terminated. Even respondent No.2 has not replied appropriately to the demand notice to the extent that respondent No.2 had abandoned the service and that petitioner has issued a show cause notice asking the respondent No.2 to report for duty etc. In view of these facts and circumstances, there is no error committed by the labour court. Hence the petition is liable to be dismissed.

4. Heard learned counsel for the parties.

5. Undisputed facts are that respondent No.2 was an ad hoc appointee as a Sweeper that too on hourly basis. He has no statutory right to claim over the post. Petitioner has not furnished any document to show that petitioner has directed the respondent No.2 to not to come to work from 11.04.2003. That apart having regard to the nature of appointment and the fact that respondent had worked up to 11.04.2003 and he is out of service from 11.04.2003, it is not appropriate that he is entitled to reinstatement with continuity of service and back wages in view of the principle laid down in the case titled as ***Bharat Sanchar Nigam Limited versus***

Bhurumal reported in 2014(7) SCC 177 at the best respondent No.2 is entitled to compensation.

6. In view of these facts and circumstances, award of labour court dated 16.12.2011 (Annexure P-4) is modified to the extent that respondent No.2 is entitled to compensation of Rs.2.50 Lacs. Compensation amount shall be paid by the petitioner within a period of 4 months from today failing which respondent No.2 is entitled to interest @ 6% per annum from the date of receipt of this order.

7. With the above observation, CWP stands disposed off.

16.03.2018

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons
Whether Reportable:

Yes
No