

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-23090-2012 (O&M)

Date of Decision:-16.01.2018.

Ram Kishan

.....Petitioner

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar and others

.....Respondents

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

Present: Mr. S.K. Verma, Advocate for the petitioner.

Mr. Rohit Arya, AAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the award passed by the Labour Court dated 27.8.2010 (Annexure P-4).

Petitioner's services were engaged on daily wage basis in the respondent-Forest Department in the month of March 1991 and in the capacity of daily wager he has worked up to 31.03.2003. He has raised a demand notice on 31.12.2005. Consequently, Reference was decided by the Labour Court on 27.8.2010 holding that even though there is a violation of Section 25-F of the Industrial Disputes Act, 1947 (in short 'Act 1947') insofar as termination is concerned, it was ordered that petitioner is entitled to compensation of ₹ 45,000/-. Hence, the present petition.

Learned counsel for the petitioner vehemently contended that

Labour Court has held that there is a violation of Section 25-F of Act, 1947, consequently, petitioner is entitled to reinstatement with continuity of service and back wages. It was also submitted that having regard to the length of service rendered by the petitioner from 1991 to 2003, he is entitled to reinstatement.

Per contra learned counsel for the respondents submitted that petitioner is a daily wager. He does not have any right over the post. Posts in the Forest Department are required to be filled up in accordance with the rules of recruitment. Since initial appointment of the petitioner is not in accordance with law, petitioner has no right to hold the post. Therefore, rightly, Labour Court has awarded compensation of ₹ 45,000/- instead of reinstatement and consequential benefits. Thus, there is no infirmity in the award passed by the Labour Court dated

Heard the learned counsel for the parties.

Short question for consideration in the present petition is whether the petitioner is entitled to reinstatement with continuity of service and back wages or not? Undisputed facts are that petitioner was appointed on daily wage basis in the Forest Department during the period from 01.03.1991 to 31.03.2003. No doubt there is a violation of Section 25-F of Act, 1947 having regard to the nature of appointment of the petitioner read with the fact that petitioner did not pursue the matter during the intervening period i.e. from 31.03.2003 to 31.12.2005, the date on which demand notice was raised. Further posts in the Forest Department are governed by the rules of recruitment. As a daily wager, no right is created to hold the post so also for continuation to hold the post. Therefore, question of reinstatement

31.03.2003, therefore, rightly, the Labour Court has awarded compensation instead of reinstatement. The said principle is supported by the Supreme Court decision in the case of **Bharat Sanchar Nigam Limited v. Bhurumal (2014) 7 SCC 177** . Having regard to the length of service rendered by the petitioner, compensation of ₹ 45,000/- awarded by the Labour Court is too meager. Therefore, it is enhanced from ₹ 45,000/- to ₹ 3,50,000/-. The concerned respondent is hereby directed to pay compensation of ₹ 3,50,000/- within a period of 4 months from today, failing which petitioner is entitled to interest @ 6% per annum from today.

With the above observations, petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

January 16, 2018.
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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.