

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-19302-2014 (O&M)

Date of Decision:-12.01.2018.

Jagmail Singh

.....Petitioner

Versus

Presiding Officer, Industrial Tribunal, Bathinda and others

.....Respondents

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

Present: Mr. Ravish Bansal, Advocate for the petitioner.

Mr. Pawan Sharda, Sr. DAG, Punjab.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged part of the order dated 03.02.2014 (Annexure P-6) and further sought for a direction for extending fixation of pay notionally with reference to the award of reinstatement with continuity of service dated 30.01.2004 (Annexure P-1).

Learned counsel for the petitioner submitted that petitioner's services were terminated which was subject matter of Reference No.334 of 2001 which was decided and it was decided on 30.01.2004 with the following order:-

“15) In view of my findings on aforesaid issues, this reference is accepted and the same stands answered and disposed off accordingly. Workman is ordered to be reinstated into service with continuity of service with 50% back wages from the date of demand notice i.e. 28.1.2001. He is directed to report for duty after one month of publication of award. No order as to costs.”

The respondents have taken their own time to implement the award. Consequently, petitioner was entitled to full pay during the intervening period from 25.03.2004 to 24.05.2005 which has been extended by the Labour Court on 03.02.2014. Insofar as extending notional benefits relating to fixation of pay with reference to the award passed by the Labour Court to the extent that reinstatement with continuity of service is concerned, the same has not been dealt by the Labour Court while deciding application on 03.02.2014. Hence, the present petition.

Learned counsel for the petitioner further submitted that having regard to the relief granted by the Labour Court and which has been accepted by the respondents and it is binding on them. What has been denied to the petitioner is only 50% back wages. However, there is a specific order that petitioner shall be reinstated with continuity of service. Continuity of service has been dealt by the Supreme Court in the case of *Karam Chand Vs. State of Punjab and others* reported in 2006 (3) SLR 849. In view of the Supreme Court decision, petitioner is entitled to notional fixation of pay. The concerned respondent is hereby directed to refix the petitioner's pay on notional basis up to 30.01.2004 from 1.2.2004 till date. Petitioner is entitled to difference of pay. The same shall be calculated and disbursed to the petitioner within a period of 4 months from the receipt of this order.

With the above observations, petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

January 12, 2018.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.