

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 23035 of 2013 (O&M)

Date of decision: 14.05.2018

BIR SINGH

..Petitioner

VS.

STATE OF HARYANA & OTHERS

..Respondents

CORAM:HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Ravi Sharma, Advocate
for Mr. Rahul Rathore, Advocate
for the petitioner.

Mr. Gaurav Jindal, Addl. AG, Haryana.

SUDHIR MITTAL, J.(ORAL)

The petitioner seeks quashing of order dated 01.10.2012 (Annexure P-7) whereby he has been denied reinstatement to the post of Work Inspector/Munshi.

2. The petitioner was appointed as Work Inspector/Munshi in the Public Work Department(B& R), Government of Haryana. His services were terminated and the same was challenged before the Labour Court. Award dated 04.06.2003 was passed in his favour whereby directions were issued to reinstate the petitioner to his original post along with continuity in service and back wages from the date of issue of demand notice.

3. The department challenged the said award by way of CWP No. 17815 of 2003. The said writ petition was dismissed vide judgment dated 27.11.2009 so far as the reinstatement of the petitioner was concerned, however, back wages were limited to the period between the date of award and date of reinstatement. Thereafter, the petitioner was offered the post of

Baildar which he refused to accept although a joining report on 30.06.2001 was submitted by him on 30.06.2001.

4. Another petition viz CWP No. 16419 of 2012, was filed because despite representation he was not being given the post of Work Inspector/Munshi. The said writ petition was also disposed of on 27.08.2012 directing the respondents to decide his representation by passing a speaking order. Hence, order dated 01.10.2012 (Annexure P-7) has been passed and prayer of the petitioner for appointment/reinstatement on the post of Work Inspector/Munshi has been rejected. A perusal of the said order shows that the ground for passing the same is that the petitioner was initially engaged on daily wages and the direction of the Labour Court was for his reinstatement to the original post. Accordingly, the petitioner had been offered the post of Baildar but he had refused to come on duty even though joining report was submitted.

5. Learned counsel for the petitioner submits that the reason that the petitioner was appointed on daily wages, is erroneous on the face of it as is evident from memo dated 14.05.2010 (Annexure P-3). The said memo is addressed by the Executive Engineer Provincial Engineer Division No.II PWD(B&R), Sonapat to the Superintending Engineer, Jhajjar Circle PWD (B& R) Jhajjar and it is specifically stated therein that the petitioner be reinstated on the post of Work Inspector/Munshi. Thus, the impugned order is not sustainable and deserves to be quashed. Moreover, a direction deserves to be issued in favour of the petitioner to reinstate him to the post of Work Inspector/Munshi.

6. Learned State counsel disputes the contentions raised by learned counsel for the petitioner.

7. A perusal of the award of the Labour Court shows that the petitioner had averred that he was employed as Work Inspector/Munshi. The Labour Court directed reinstatement on the original post however, no finding was given with regard to what the said post was. The communication dated 14.05.2010(Annexure P-3) however, makes it clear that the original post was of Work Inspector/Munshi. The argument that the petitioner was offered reinstatement but he did not join service, is misplaced. The petitioner did submit his joining report but he should not be expected to join duty on post of Baildar when he was entitled to the post of Work Inspector/Munshi.

8. Writ petition is accordingly allowed. Order dated 01.12.2012 (Annexure P-2), is quashed. It is directed that the petitioner be appointed against the post of Work Inspector/Munshi or on any equivalent post in case the said post is not available as on date. The petitioner shall be paid all consequential benefits along with interest @ 6% per annum and his claim for regularization, shall also be considered in accordance with law.

May 14, 2018
Poonam (II)

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No