

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

**CWP-20532-2014**

**Date of Decision: 26.04.2018**

Bhanwar Singh

... Petitioner

Vs.

Presiding Officer and another

... Respondents

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

Present : Mr. Pritam Saini, Advocate  
for the petitioner.

Mr. Bhupender Beniwal, A.A.G. Punjab.

**P.B. BAJANTHRI J. (Oral)**

In the instant petition, petitioner has challenged the award passed by the Labour Court dated 26.03.2014 (Annexure P-14).

2. Petitioner was appointed on daily wage basis from 15.6.1995 to 31.12.1996. Thereafter, he was appointed on contract basis from 1.1.1997 to 13.3.1997. Further he was appointed on 89 days basis on number of occasions. Thus, he has rendered service with the respondent for the period from 14.03.1997 to 16.2.2004 continuously with break of 65 days. Petitioner raised a industrial dispute and it was decided by the Labour Court holding that even though termination is contrary to the provisions of the Industrial Disputes Act, 1947 (for short "the Act"). In order to meet the ends of justice, a lump sum amount of compensation of Rs.55,000/- has been ordered. Thus, the present petition.

3. Learned counsel for the petitioner submitted that petitioner is entitled to reinstatement when the order of termination is held to be illegal or arbitrary. He has also stated that persons who were appointed similarly in the year 1995, their services have been regularized as is evident from the

affidavit dated 06.04.2018 filed by the Director, Information and Public Relation Department, State of Punjab.

4. Per contra, learned counsel for the respondent while resisting the contention of the petitioner submitted that petitioner's case cannot be compared with Sh. Vijay Kumar which is stated in the affidavit for the reasons that petitioner's services have been dispensed in the year 2004. During the intervening period, there is a break of 65 days. Moreover, he was appointed initially on daily wages on contract basis and further on ad-hoc basis. His appointment is not in accordance with law. Therefore, question of reinstatement with continuity of service is not made out.

5. Heard the learned counsel for the parties.

6. Undisputed facts are that petitioner was appointed on daily wage basis, contractual basis and on ad-hoc basis during the period from 15.6.1995 to 16.02.2004. Petitioner has no right to claim over the post, even though, order of termination is contrary to the provisions of the ID Act. However, petitioner is out of service since 2004. Therefore, there is no automatic reinstatement merely because order of termination is in violation of the ID Act. Supreme Court in the case of **B.S.N.L** v. **Bhurumal**; (2014) 7 SCC 177 has held that reinstatement is not automatic in the alternative compensation could be awarded. Therefore, there is no infirmity in respect of awarding compensation by the Labour Court. However, having regard to the length of service rendered by the petitioner from 1995 to 2004 and the fact that order of termination is contrary to the provisions of the Act, petitioner is entitled to enhance compensation from Rs.55,000/- to Rs.5,00,000/-. Concerned respondent is hereby directed to pay the enhance compensation of Rs.5,00,000/- to the petitioner within a period of three

months from today.

7.               Petition stands disposed of accordingly.

26.04.2018  
rajeev

(P.B. Bajanthri)  
Judge

Whether speaking/reasoned               Yes/No

Whether reportable                       Yes/No