

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

204

**CWP-7238-2011 (O&M)
Date of decision:15.01.2018**

Brij Pal

....Petitioner

Versus

Presiding Officer and another

.... Respondents

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

Present: Mr. Ashwani Bakshi, Advocate for the petitioner.

Mr. Rohit Arya, A.G. Haryana.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has challenged the award passed by the Labour court dated 03.02.2009 (Annexure P5). Petitioner's services were engaged on daily wage basis from 10.02.1995 to 16.05.1998. His services were terminated on 17.05.1998. Petitioner has raised demand notice on 04.06.1998. Thus, reference was made. Reference No. 44 of 2000 was decided by the Labour court against petitioner. Hence present petition.

Learned counsel for the petitioner submitted that there is violation of Section 25F of the Industrial Disputes Act, 1947. He had raised demand notice immediately within one month from the date of termination. Therefore, labour court has erred in rejecting reference.

Per contra, learned counsel for the respondents submitted that petitioner has no legal right to continue to hold the post since his initial appointment itself is not in accordance with law and he was only a daily wager.

Heard learned counsel for the parties.

Perusal of the service particulars of the petitioner to the extent that he has joined service on 10.02.1995 and his services were dispensed in

the year 1998 and the fact that petitioner was appointed on daily wage basis and it is not in accordance with law for the purpose of regular recruitment or reinstatement, one must have the legal right, petitioner has no legal right to continue to hold the post. Moreover, he is out of service from May, 1998. At this juncture, it is not appropriate to order for reinstatement and consequential benefits. Supreme Court in the case of ***Bharat Sanchar Nigam Limited Versus Bhurumal and another*** reported in 2014(7) SCC 177 held that reinstatement is not automatic and it could be compensated by awarding compensation. Thus, petitioner is entitled to compensation of sum of Rs.1,50,000. The concerned respondent is hereby directed to pay compensation within a period of 3 months from today failing which petitioner is entitled to interest on the compensation @ 6% per annum from today.

With the above observation, CWP stands disposed of.

15.01.2018

pooja saini

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

Whether speaking/reasons:

Yes/No

Whether Reportable:

Yes/No