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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP-21487-2016
Date of Decision : August 17, 2018

Divisional Forest Officer, Dasuya and another
.... Petitioners

Versus

Subhash Chand and another
.... Respondents.

2. CWP-6367-2018

Subhash Chand
.... Petitioner

Versus

State of Punjab and others
.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Ms. Bhavna Gupta, DAG, Punjab
for the petitioners in CWP-21487-2016 and
for respondents-State in CWP-6367-2018.

Mr. Om Pal Sharma, Advocate,
for the petitioner in CWP-6367-2018 and
for respondent No.1 in CWP-21487-2016.

SHEKHER DHAWAN, J.

Challenge in the above titled two writ petitions under Articles
226/227 of the Constitution of India is to the common award dated

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21.01.2016 passed by learned Industrial Tribunal, Jalandhar (for short. "**the Tribunal**") whereby, Subhash Chand, workman was held entitled to lump-sum compensation to the tune of Rs.50,000/- and the Management was directed to make the payment within two months from the date of award, failing which, the Management was held liable to pay interest at the rate of 8% per annum from the date of award till realization. As such, both these writ petitions are taken up together and are being disposed of by this common judgment.

2. Facts relevant for the purpose of decision of these writ petitions; that Subash Chand was appointed as a Worker/labourer in the Forest Department for nursery plantation on 11.8.1998 and his services were terminated on 14.4.2001. The said termination was challenged by the workman by issuing demand notice before Assistant Labour Commissioner-cum-Conciliation Officer and a settlement had taken place on 7.3.2002 as per provisions of Section 12(3) of the Industrial Disputes Act, 1947 (for short "**the Act**"). Accordingly, the workman was reinstated in service on 11.3.2002 with continuity of service. His services were again terminated on 24.07.2006 without following the provisions of the Act or without issuing any notice or payment of compensation. At that time, the workman was drawing Rs.2433/- per month as wages. He again raised an industrial dispute and learned Tribunal pronounced the award dated 21.1.2016, thereby holding the termination of the workman to be illegal and unjustified, but in lieu of ordering reinstatement and continuity of service, held the workman entitled to lumpsum compensation of Rs.50,000/-.

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3. CWP-6367-2018 has been filed by the workman to modify the impugned award on the ground that as the learned Tribunal has returned the finding that the termination was illegal, reinstatement with continuity of service was consequential benefit, but learned Tribunal did not pronounce the award in those terms and the same be modified and the workman be awarded the relief of reinstatement with continuity of service and back wages or in the alternative, at least a reasonable compensation should be awarded in view of the fact that the workman had served the management for about 7 years and was victim of unfair labour practice as well.

4. CWP-21487-2016 has been filed by the Management (Forest Department, Punjab) challenging the award passed by learned Tribunal on the ground that the workman was working on seasonal basis and after expiry of that and there being no work available for the workman, he was not allowed to continue to work and there was no question of payment of any retrenchment compensation or reinstatement with back wages and the award pronounced by the Tribunal whereby a lumpsum compensation of Rs.50,000/- has been awarded to the workman, be set-aside to that extent.

5. When CWP-6367-2018 came up for hearing before this Court, while issuing notice of motion, the following order was passed on 15.03.2018:-

“ Notice of motion for 19.04.2018 only to the extent whether petitioner is entitled to compensation or not having regard to the service rendered by the petitioner.

List along with CWP-21487-2016 on 19.04.2018”.

6. At the time of arguments, learned counsel representing the

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parties have advanced their arguments in the above lines. Learned counsel for the workman, on instructions from him, further contended that at this stage, the workman is unable to resume his duties because of his physical incapacity and the workman prays for enhancement in the lump-sum compensation only.

7. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that most of the facts are not disputed that the workman had initially worked from 11.8.1998 to 14.4.2001, when his services were terminated. The said termination was challenged by the workman by issuing demand notice before Assistant Labour Commissioner and a settlement had taken place on 7.3.2002 as per provisions of Section 12(3) of the Industrial Disputes Act, 1947 (for short "**the Act**"). Accordingly, the workman was reinstated in service on 11.3.2002 with continuity of service. His services were again terminated on 24.07.2006. Facts are also not disputed that learned Tribunal, on the basis of reference having been made, returned the finding that the termination of the workman was illegal without complying with the procedure laid down under the Act, but at the same time, the Court pronounced the award for payment of lump-sum compensation of Rs.50,000/- only whereas, the petitioner had already put in continuous service of more than 7 years. The Tribunal has not taken reasonable view while awarding lump-sum compensation to the workman and the compensation amount is on much lower side. Identical matter was before a Division Bench of this Court in **Sunil Kumar Vs. Presiding Officer,**

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Industrial Tribunal-cum-Labour Court, Gurdaspur and others, LPA

No. 2078 of 2014, decided on 19.11.2015 where the workmen had served for 4-1/2 years to 8-1/2 years and they were awarded compensation to the tune of Rs.30,000/- for each completed year of service. As such, the present petition is accepted and the amount of lump-sum compensation in this case is enhanced from Rs.50,000/- to Rs.1,50,000/-. So ordered. The enhanced amount, as indicated above, be paid to the workman within a period of 2 months from the date of receipt of a copy of this order, failing which the same will carry interest @ 9% per annum from the date of this order.

8. Resultantly, CWP-21487-2016 filed by the Management is without any merit and the same stands dismissed. CWP-6367-2018 filed by Subash Chand, workman stands partly allowed in the above terms.

(SHEKHER DHAWAN)
JUDGE

August 17, 2018.
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes