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

1. CWP No.22980-2016
Date of decision : Sept. 07, 2018

Ravinder Mohan GargPetitioner.

Versus

Presiding Officer, Industrial Tribunal, Patiala and others ...Respondents.

2. CWP No.5212-2017

Rattan ChandPetitioner.

Versus

Presiding Officer, Industrial Tribunal, Patiala
and others ... Respondents.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Ravi Gakhar, Advcoate
for the petitioner.

Mr. Parveen K. Kataria, Advocate
for respondents No.2 and 3.

SHEKHER DHAWAN, J.

The above titled two writ petitions arise out of common award dated 16.08.2013 (Annexure P/1) passed by the Industrial Tribunal, Patiala (for short, "**the Tribunal**") whereby reference was answered in favour of the petitioners/workmen, declining the relief of reinstatement with back

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wages and continuity of service, while awarding lump sum compensation to the tune of Rs.2,00,000/- to the petitioners/workman, which is otherwise, on lower side. Therefore, with the consent of the counsel for the parties, 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 two writ petitions; that Ravinder Mohan Garg was appointed as Draftsman vide appointment letter dated 29.05.1980 and he was promoted as Design Assistant in Technical Grade vide letter dated 1.10.1998 and was later on confirmed as such with effect from 1.4.1989, vide order dated 21.4.1989. He served the respondent-Management for a period of 22 years and 3 months. His services were terminated on 21.08.2002.

3. Rattan Chand, petitioner was appointed as a General Worker vide appointment letter dated 25.02.1984 and he served the Management for more than 19 years and 6 months and his services were terminated on 21.08.2002.

4. Industrial dispute was raised by these two workmen and learned Tribunal decided the reference in favour of the workmen and awarded lump-sum compensation to the tune of Rs.2,00,000/- each to both the petitioners/workmen in lieu of ordering reinstatement with continuity of service and back wages.

5. Learned counsel representing the petitioners contended that at the time of termination/discharge, petitioner, Ravinder Mohan Garg was getting salary at the rate of Rs.7295.01 ps per month and petitioner, Rattan Chand was getting monthly salary of Rs. 4,839.66. Learned Tribunal

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though, recorded the findings that the petitioners had served the Management for a long period of more than 22 years in the case of Ravinder Mohan Garg and more than 19 years in the case of Rattan Chand, yet lump-sum compensation of Rs.2,00,000/- each has been awarded by learned Tribunal which is not fair and just compensation otherwise.

6. The case of the Management is that Ravinder Mohan Garg was discharged vide letter dated 21.08.2002 in terms of clause (4) of his appointment letter dated 29.05.1980 and as such, his case is covered under Section 2(o)(bb) of the Industrial Disputes Act, 1947 (for short "**the Act**"), and one month's salary in lieu of notice was also paid to him at the time of discharge. Similar is the case of Rattan Chand. Management had examined P.N. Kaushik, Senior General Manager as MW-1, who tendered his affidavit Ex. MW/1 alongwith documents Ex. M1 to M14 stating that the workmen in these cases were strictly discharged as per provisions of Section 2(o)(bb) of the Act, in accordance with the stipulation contained in their letters of appointment. Even otherwise, M/s M.O.I. Engineering Limited, respondent No. 1 Company, is a "Sick Company" under the Sick Industrial Companies (Special Provisions) Act, 1985 (for short, "**the SIC Act**") and was registered with Board for Industrial and Financial Reconstruction (for short, "the BIFR"). A rehabilitation scheme is in operation under the provisions of the SIC Act and as such, no legal proceedings could be instituted against it without the approval of BIFR.

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7. In the light of the stand taken by the Management that the respondent – Company has otherwise become a sick company under the SIC Act and is registered with BIFR, there was no question of reinstatement of the workmen with continuity of service and back wages and the best course available with learned Tribunal was to award lump-sum compensation only. Accordingly, learned Tribunal has awarded lump-sum compensation of Rs.2,00,000/- each keeping in view the long period of employment in case of both i.e. more than 22 years in case of Ravinder Mohan Garg and more than 19 years in case of Rattan Chand. However, taking into consideration the long period of employment of both the petitioners-workmen, the amount of compensation cannot be considered to be reasonable by any standard.

8. Identical matter was before Hon`ble Division Bench of this Court in **LPA-2078-2014, Sunil Kumar vs. Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurdaspur** decided on 19.11.2015 wherein compensation was awarded @ Rs.30,000/- for each completed year of service. However, the same standard cannot be applied strictly in these cases because the respondent Company is a 'Sick Company'. At the same time, this Court has to consider the welfare and interest of the workmen as well while awarding the compensation because learned Tribunal has not awarded just and adequate compensation to the petitioners.

9. In the present cases, the award is modified to the extent that both the petitioners shall be entitled to lump-sum compensation of Rs.4.00 lakhs each and the payment shall be made by the respondent-Management within a period of two months from the date of receipt of a

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copy of this order. In case the respondents fail to make the payment within a period of two months, the petitioners shall be entitled to receive the said amount alongwith interest @ 9% per annum from the date of this order.

10. The writ petitions stand partly allowed in the above terms.

(SHEKHER DHAWAN)
JUDGE

September 07, 2018.
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes