

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-3536-2013

Date of Decision:-09.02.2018.

Rajpal Singh

.....Petitioner

Versus

Managing Director, Haryana Land Reclamation and Development
Corporation Ltd. and another

.....Respondents

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

Present: Mr. Raghav Goel, Advocate for the petitioner.

Mr. Ajay Chauhan, Advocate for respondent No.1.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the portion of the award dated 30.11.2011 (Annexure P-2) to the extent of extending the benefit of 25% back wages instead of full back wages.

Petitioner was appointed as a Store Keeper. His services were dismissed pursuant to the disciplinary proceedings initiated against him. Order of dismissal is the subject matter of industrial dispute. Labour Court allowed the reference in favour of the petitioner on 30.11.2011 while setting aside the order of dismissal and further directed that petitioner is entitled to reinstatement with continuity of service with 25% back wages from the date of demand notice.

Learned counsel for the petitioner submitted that once the order of dismissal is set aside, consequently, petitioner is entitled to all service benefits including arrears of pay during the intervening period from the date

of dismissal till passing of the award. Thus, Labour Court has erred in extending the benefit of 25% back wages instead of full back wages.

Per contra learned counsel for respondent No.1 submitted that during pendency of this petition, respondents have also filed writ petition before this Court challenging the award passed by the Labour Court dated 30.11.2011. However, the same has been withdrawn. Thereafter, petitioner had given an undertaking that he will not claim any benefit.

Heard learned counsel for the parties.

Labour Court when it is decided that order of dismissal is not in accordance with law and it was set aside in that event, petitioner is entitled to consequential benefits. Therefore, no reasons have been assigned as to why back wages has been restricted to 25%. In fact petitioner was entitled to all service benefits including arrears of salary once the order of dismissal is set aside. Perusal of the affidavit, it is crystal clear that petitioner had imposed a condition that he reserves his right to claim service benefit. Having regard to length of litigation from the date of dismissal, petitioner might have engaged elsewhere for the purpose of livelihood. Therefore, back wages of 50% would suffice. Accordingly, award passed by the Labour Court dated 30.11.2011 (Annexure P-2) is modified to the extent of 50% back wages from the date of demand notice.

Petition stands allowed in part.

(P.B. BAJANTHRI)
JUDGE

February 09, 2018.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.