

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-2625-2015 (O&M)
Date of Decision:-15.01.2018.

Dhanna Singh

.....Petitioner

Versus

Industrial Tribunal, Patiala and others

.....Respondents

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

Present: Mr. Ravi K. Mattoo, Advocate for the petitioner.

Mr. Pawan Sharda, Senior DAG, Punjab.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the award passed by the Labour Court dated 20.09.2013 (Annexure P-3) to the extent that denial of continuity of service and back wages.

Learned counsel for the petitioner submitted that petitioner has joined service in the month of February, 1998 and worked up to 01.03.2002. He has raised an industrial dispute and Reference has been decided by the Labour Court on 20.09.2013 to the extent of reinstatement afresh, without continuity of service and back wages. Once the order of termination is held to be bad, in that event the employee is entitled for consequential benefits including continuity of service and back wages.

Per contra, learned counsel for the respondents submitted that there is no infirmity in the Labour Court award. Petitioner is only a daily wager, therefore, rightly Labour Court has held that petitioner is entitled for fresh appointment without continuity of service and so also without back

wages.

Heard learned counsel for the parties.

Once the order of termination is set aside on the ground of violation of various provisions of the Industrial Disputes Act, 1947, in that event employee is entitled to continuity of service irrespective of his status. Even in the case of daily wager, if continuity of service is extended, that may assist him for the purpose of regularization, if any in the future date. Therefore, Labour Court has erred in not extending the benefit of continuity of service. So far as denial of back wages is concerned, it is to be noted that petitioner was a daily wager as Mali/Beldar. Once the termination is held to be bad, in that event at least an employee is entitled to 50% back wages irrespective of whether he was working during the intervening period or not. For the reasons that to lead livelihood, one has to earn. Even if the petitioner is engaged in some work for the purpose of earning, in that event, he is entitled to some back wages. Moreover, respondents have not challenged the award passed by the Labour Court. Therefore, award passed by the Labour Court dated 20.09.2013 (Annexure P-3) is modified to the extent that petitioner is entitled to reinstatement, continuity of service with 50% back wages. To that extent Labour Court award is modified. 50% back wages shall be calculated and paid by the concerned respondent to the petitioner within a period of 3 months from today.

Petition stands allowed in part.

(P.B. BAJANTHRI)
JUDGE

January 15, 2018.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.