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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.26480 of 2015.

Date of Decision : August 23, 2018

Surinder Kumar

.... Petitioner.

Versus

Presiding Officer, Industrial Tribunal,
Jalandhar and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Argued by : Mr. Aman Dhir, Advocate
for the petitioner.

Ms. Jyoti Sarin, Advocate.
for respondents No.2 to 4.

SHEKHER DHAWAN, J.

Present writ petition under Articles 226/227 of the Constitution of India is challenge to the award dated 15.10.2015, whereby petitioner-Surinder Kumar was ordered to be paid a lump-sum compensation of Rs.1,50,000/- in lieu of reinstatement, continuity of service and backwages.

2. Facts relevant for the purpose of decision of this writ petition; that as per the petitioner, he was appointed by respondents-Nakodar Hindu Urban Co-op. Bank Ltd. (for short, '**the Management**') 1.1.1994 as Tiny Collector-cum-Peon on regular basis. His services were terminated on 01.09.2003 without issuance of notice, payment of any compensation which is against the provisions of Industrial Disputes Act, 1947 (for short,

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'the Act'). The petitioner raised industrial dispute and reference was made to the learned Industrial Tribunal, Jalandhar (for short, '**the Tribunal**'). Learned Tribunal decided the reference partly in favour of the petitioner, thereby awarding Rs.1,50,000/- as lump-sum compensation in lieu of reinstatement, continuity of service and back-wages.

3. Respondents-Management has come with the plea that, in fact, the petitioner-workman left the job voluntarily and had submitted resignation. It was not a case of dismissal, discharge or termination of the workman. On merits, the management admitted employment of the petitioner as Time Collector-cum-Peon. The petitioner had tendered resignation which was accepted by the management in its meeting dated 25.06.2004, so there was no question of taking the petitioner back in service.

4. Learned Industrial Tribunal, while considering the material and evidence available on the file, returned the finding that the contention of respondent-management that the petitioner-workman had tendered resignation was not proved on the file. The management could not produce any record whereby resignation of the petitioner was accepted or that the workman had tendered affidavit Ex.MX/1.

5. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that learned Tribunal has rightly returned the finding that the affidavit of the petitioner is dated 29.08.2003, but the same was attested on 17.11.2003 and, as such, it is not a legal evidence and no reliance can be

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placed on such an affidavit otherwise. The management has not challenged the said finding on Issue No.2 recorded by learned Tribunal. As such, the respondent-management cannot take this plea.

6. As regard to contention of learned counsel for the petitioner, that the petitioner-workman had joined the management on 01.01.1994 and his services were terminated on 01.09.2003 without payment of any retrenchment compensation or notice, but he has been awarded a meager lump-sum compensation of Rs.1,50,000/- for about 9 years of service. This Court is of the considered view that the Tribunal has not taken reasonable view while awarding lump-sum compensation to the workmen especially the fact that the workman had served the Management for more than nine long years 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, 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.

7. Resultantly, applying the aforesaid principle to the present set of cases, petitioner-workman shall be entitled to compensation of Rs.3,00,000/ (Rs. Three Lakhs). Respondent-Management shall be liable to make payment of amount of compensation so assessed, within a period of three months from today, failing which the petitioner shall be entitled to interest @ 9% per annum from today.

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8. Resultantly, the writ petition stands partly allowed in the above terms.

(SHEKHER DHAWAN)
JUDGE

August 23, 2018.
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes