

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

Date of Decision: 18.04.2018

1. CWP No.9575 of 2012

Naveen Kumar

.....Petitioner

Vs.

**Presiding Officer, Industrial Tribunal-cum-
Labour Court-II, Gurgaon and anotherRespondents**

2. CWP No.22076 of 2016

M/s Gaurav International

.....Petitioner

Vs.

**Presiding Officer, Industrial Tribunal-cum-
Labour Court-II, Gurgaon and anotherRespondents**

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

Present:- Mr. Atul Yadav, Advocate for the petitioner
(in CWP No.9575 of 2012) and for respondent No.2
(in CWP No.22076 of 2016).

Mr. Harsh Aggarwal, Advocate for respondent
No.2 (in CWP No.9575 of 2012) and for the petitioner
(in CWP No.22076 of 2016).

P.B. BAJANTHRI, J.(Oral)

In the instant petition, both the management and the workman have filed a cross petitions insofar as challenging the award passed by the Labour Court dated 09.11.2011. The workman was appointed as Tailor on 23.06.1997. However, respondent- Management disputed date of joining. Workman remained absent from 01.04.1998 onwards. Management issued a show cause notice on 13.04.1998 for which there was no response from

the workman. Consequently, management proceeded to pass order of termination on 05.05.1998. Thus workman raised an industrial dispute. Industrial Tribunal proceeded to pass award of compensation of ₹20,000/-.

2. Learned counsel for the Management has submitted that during the intervenining period from 01.08.1997 to 31.03.1998, the workman had not completed 240 days of actual work. He remained absent on number of occasions. In other words, overall, he has worked only for 202.5 days. Therefore, the Labour Court has erred in granting compensation.

3. Having regard to the terms and conditions of appointment letter that workman was on probation for a period of six months. As on the date of his termination, he was on probation, for any misdeed or allegations, like remaining unauthorisedly absent, management should have resorted to inquiry irrespective of the fact as to whether he has completed 240 days or not. In view of these factual aspects and that workman is out of service from 05.05.1998 consequent upon his termination, question of reinstatement do not arise in view of the decision of the Supreme Court in case **BSNL v. Bhurumal, (2014) 7 SCC 177**. Having regard to the length of service rendered by the workman, he is entitled to a sum of ₹50,000/- as compensation. Accordingly, Industrial Tribunal's order dated 09.11.2011 is modified. Both these petitions are disposed of in the above terms.

4. At this stage, learned counsel for the Management submitted that the award has been implemented by paying compensation of ₹20,000/- to the workman. Therefore, Management is hereby directed to pay

remaining compensation amount of ₹30,000/- to the respondent- workman
within a period of three months from today.

April 18, 2018
renu

(P.B. BAJANTHRI)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No