

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

CWP-5007-2015

Date of Decision: 23.02.2018

District Manager Hafed

... Petitioner

Vs.

Presiding Officer and another

... Respondents

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

Present : Mr. Hitesh Pandit, Advocate
for the petitioner.

Mr. Sandeep Singal, Advocate
for respondent No.2.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has challenged the award passed by the Labour Court dated 21.11.2014 (Annexure P-1)

2. Respondent-workman was appointed as a Chowkidar for two spells on 89 days basis during the period from 28.10.2003 to 20.01.2004 and May 2003 to 28.7.2003. Thereafter, services of the respondent-workman was dispensed. Thus, he raised industrial dispute. Labour Court for want of record passed award in favour of the respondent-workman. Hence, the present petition.

3. Learned counsel for the petitioner submitted that insofar as non production of document during the period from October 2003 to January 2004 is due to administrative difficulty. Now in the present petition, it has been produced as Annexure P-6. Thus, respondent-workman has not completed 240 days so as to claim benefit of the provisions of the ID Act for the purpose of reinstatement with continuity of service and back wages.

4. Per contra, learned counsel for the respondent-workman submitted that petitioner has not produced relevant material for the period from October 2003 to January 2004. Thus, rightly Labour Court has drawn

inference that respondent has worked for 240 days. Therefore, there is no infirmity in the award passed by the Labour Court.

5. Heard learned counsel for the parties.

6. Short question for consideration in the present petition is whether respondent-workman is entitled to reinstatement with continuity of service and backwages or not?

7. Undisputedly, respondent has worked for two spells on 89 days basis which clearly shows that he was appointed on ad-hoc basis. He has no right to claim over the post in view of the nature of appointment which was on ad-hoc basis. Moreover, his services have been dispensed way back on 18.6.2004. Therefore, question of reinstatement may not be appropriate. Thus, Labour Court has erred in directing for reinstatement with consequential benefits. Supreme Court in the case of **B.S.N.L. v. Bhurumal;** (2014) 7 SCC 177 held that there cannot be automatic reinstatement if the service of an employee is adhoc and is dispensed long back and he can only be compensated by awarding compensation. The aforesaid principle is applicable to the present case.

8. Accordingly, Labour Court award dated 21.11.2014 is set aside. However, respondent-workman is entitled for compensation of Rs.50,000/-. Compensation shall be paid to the respondent-workman by the petitioner within a period of three months from today. Failing which respondent-workman would be entitled to interest @ 6% per annum from today.

9. With the above observation, petition stands disposed of.

23.02.2018

rajeev

Whether speaking/reasoned

Whether reportable

(P.B. Bajanthri)

Judge

Yes/No

Yes/No