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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-627-2015

Date of Decision : July 26, 2018

Prabhu Nath

.... Petitioner.

Versus

Presiding Officer, Industrial Tribunal, Patiala
and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Ravi Gakhar, Advocate
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

Mr. Sanjeev Soni, Advocate,
for respondents No. 2 and 3.

SHEKHER DHAWAN, J.

Present writ petition under Article 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari for quashing the impugned award dated 29.10.2014 (Annexure P/1) passed by Industrial Tribunal, Patiala (for short, "**the Tribunal**") whereby lump-sum compensation of Rs.10,000/- was granted to the petitioner-workman on account of his retrenchment.

2. Facts relevant for the purpose of decision of this writ petition; that the petitioner-workman was appointed as Pump Operator/Beldar with

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the Municipal Corporation, Patiala (hereinafter referred to as “**the Management**”) on 7.3.1995. He worked with the Management upto 2.5.1997 when on 3.5.1997, his services were terminated without any notice, issuance of charge sheet, enquiry or compensation. The petitioner was drawing salary of Rs.1420/- per month.

3. Industrial dispute was raised and reference was made to the Tribunal. The stand taken by the Management before the Tribunal was that reference itself was not maintainable having been made by Assistant Labour Commissioner, Patiala who was the Conciliation Officer in the demand notice dated 27.8.2009. On merits, the Management took the plea that the petitioner worked as Beldar only for a total period of 182 days with breaks in a year prior to alleged termination on 3.5.1997. Since, he had not completed 240 days of service in a calendar year, as such, the petitioner was not entitled to reinstatement, continuity of service or any retrenchment compensation.

4. The Tribunal after appreciating the material and evidence available on record, returned the finding vide award dated 29.10.2014 (Annexure P/1) that the petitioner had actually worked for a period of 240 days in the preceding year during his employment with the Management from 7.3.1995 to 2.5.1997 and it was a case of non-compliance of provisions of Section 25-F of the Industrial Disputes Act, 1947 (for short “**the Act**”). However, the Tribunal passed an order for lump-sum compensation to the tune of Rs.10,000/- in lieu of reinstatement in service keeping in view the short duration of service rendered by the petitioner with

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the Management.

5. Aggrieved of passing of the said award, the petitioner has challenged the award, Annexure P/1.

6. At the time of arguments, learned counsel for the petitioner contended that though, he has sought re-instatement in job and continuity of service and back wages, but the workman-petitioner would be satisfied if reasonable compensation is awarded to him. Learned counsel for the petitioner further contended that in similar cases, the judicial pronouncements from Hon`ble Apex Court as well as from this Court are on the point that in such cases, the workman is at least entitled to Rs.50,000/- to Rs.1,00,000/- for each completed year, but even the compensation awarded in this case is on the lower side.

7. Learned counsel for the respondents contended that the Tribunal has taken the most reasonable view keeping in view the length of service of the petitioner with the Management and the petitioner having not completed 240 days of continuous service in the immediate preceding calendar year.

8. Having considered the submissions made by learned counsel for the parties and appraisal of the record and also the fact that scope of controversy having been restricted to the point of award of compensation only, this Court is of the considered view that the Tribunal has not taken reasonable view while awarding lump-sum compensation to the workman and the compensation amount is on much lower side. Identical matter was before a Division Bench of this Court in **Sunil Kumar Vs. Presiding**

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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. As such, the present petition is accepted and the amount of lump-sum compensation in this case is enhanced from Rs.10,000/- to Rs.60,000/-. So ordered. The enhanced amount, as indicated above, be paid to the petitioner-workman within a period of 2 months from the date of receipt of a copy of this order, failing which the same will carry interest @ 9% per annum from the date of this order.

9. The writ petition stands partly allowed in the above terms.

(SHEKHER DHAWAN)
JUDGE

July 26, 2018.
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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes