

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

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**CWP-8359-2014 (O&M)
Date of decision:26.02.2018**

Bijender

...Petitioner

Versus

State of Haryana and others

.... Respondents

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

Present: Mr. Ajay Chaudhary, Advocate for the petitioner.

Mr. Rohit Arya, AAG, Haryana.

P.B. BAJANTHRI, J. (ORAL)

Persuant to the order 13.12.2017 Executive Engineer, Public Health Engineering, Division No.2, Bhiwani has filed an affidavit wherein he has admitted in the last paragraph that petitioner was appointed in the month of April, 1997 whereas Sh. Sunil Kumar was appointed on 02.01.1999. It was further stated that no seniority list is being maintained. Thus, it is evident from the affidavit that petitioner is senior to one Sh. Sunil Kumar who was also similarly situated person like petitioner. Therefore, in terms of the order passed in Sunil Kumar's case, present petition is to be allowed.

2. Learned counsel for the respondent opposed the fact that Sh. Sunil Kumar's case is not identical to that of present petition on the score that there is delay of nearly 4 years in challenging the award dated 15.10.2010 (Annexure P-3) whereas Sunil Kumar had challenged the award within 2 years from the date of award i.e. in the year 2012. Hence it is a distinguishable from Sh. Sunil Kumar's case.

3. Heard learned counsel for the parties.

4. Both the petitioner and Sh. Sunil Kumar were standing on the same foot with reference to service particular and termination etc. What is the difference is date of entry into service. Petitioner joined in the year 1997 whereas Sunil Kumar joined in the year 1999. Further difference in both the cases is that Labour court passed award in the year 2010 whereas Sh. Sunil Kumar approached in the year 2012 and petitioner approached this court in the year 2014. Therefore, at the best petitioner is not entitled to back wages, otherwise he is entitled for reinstatement on par with Sh. Sunil Kumar. To that extent present CWP is allowed in terms of case titled as ***Sunil Kumar versus Presiding Officer and others*** passed in CWP No. 12544 and 15476 of 2012 reported in 2015(4) LLJ 392.

26.02.2018

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No