

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

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**CWP-8955-2016 (O&M)
Date of decision:02.02.2018**

Child Development Project Officer

...Petitioner

Versus

Jyoti and another

.... Respondents

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

Present: Mr. G.S.Wasu, Addl. A.G. Haryana.

Mr. S.S. Kharb, Advocate for respondent No.1.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has challenged the award passed by the labour court dated 09.10.2015 (Annexure P8). Respondent was appointed as a Anganwari worker on honrary basis on 18.05.2006 and her services were terminated on 26.02.2008. Respondent issued demand notice on 03.02.2010. Labour court proceeded to pass award in favour of the respondent on 09.10.2015 to the extent that she is entitled for reinstatement with continuity of service and 50% back wages from the date of demand notice. Learned counsel for the petitioner submitted that for remaining unauthorized absent they had issued number of communications

to the respondent. The same were not replied. Consequently, her services were terminated. Respondent has no right to continue to hold the post in view of the conditions imposed in the order of appointment. Thus, labour court has erred in extending benefit of reinstatement with continuity of service and 50% back wages.

2. Per contra, learned counsel for the respondent while resisting the claim of the petitioner submitted that labour court has recorded the contentions of the petitioner relating to issuance of number of letters for remaining absent. At the same time it was noted that such letters have not been communicated to the respondent to her address. Therefore, termination of the respondent was arbitrary and illegal. Moreover, no notice has been issued before order of termination. Therefore, no interference is called for.

3. Heard learned counsel for the parties.

4. No doubt respondent was appointed as an Anganwari Worker on honorary basis. Her services were terminated on 26.02.2008. Less than 2 years of service has been rendered by the respondent. Demand notice i.e. on 03.02.2010 is a belated one. Explanation for delay is that she was approaching the authorities, same has been denied by the respondents. Rightly or wrongly, there is delay in raising demand notice. Therefore, respondent is not entitled for reinstatement with continuity of service and 50% back wages. Moreover, she is out of service from 26.02.2008 and hardly she has worked for about less than 2 years. Therefore, it is appropriate to grant compensation instead of reinstatement. Accordingly, award passed by the labour court dated 09.10.2015 (Annexure P8) is set

aside. Respondent is entitled to compensation of Rs.1,50,000/-.

Compensation shall be paid by the petitioner within a period of 4 months from today failing which respondent is entitled to interest @ 6% per annum.

5. With the above observation, CWP stand disposed of.

02.02.2018

pooja saini

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

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No