

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.30369 of 2018

Date of Decision: 30.11.2018

Gurmeet Lal

... Petitioner

Versus

The General Manager, Punjab
Roadways, Pathankot and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. S.K. Choudhary, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.

1. The challenge in this petition is to the impugned award dated December 19, 2016 passed by the Presiding Officer, Industrial Tribunal, Gurdaspur. The challenge has been brought after two years of the passing of the award.

2. Earlier, the petitioner challenged his termination in 1990 from service before the Labour Court on a reference of the dispute and succeeded by award dated February 26, 2001. In appeal by the Punjab Roadways, the award was set aside by this Court in CWP No.795 of 2002 dated May 04, 2004.

3. The dispute referred to the Industrial Tribunal, Gurdaspur by the appropriate Government was whether the workman (the present petitioner) is entitled to be re-employed as per provisions of Section 25-H of the Industrial Disputes Act, 1947 (for short "the Act"). He was a conductor in Punjab Roadways, Pathankot.

4. By the very terms of the present reference, the petitioner does

not dispute the validity of termination in violation of Section 25-F of the Act, therefore, the termination is to be regarded as justified and procedure duly followed.

5. The case was instituted on February 04, 2010 and reference was registered as No.4 of 2011. The Labour Court has answered the reference in favour of the petitioner by directing the management to re-employ him without back wages. The period earlier spent as Conductor by the petitioner has been counted towards pension and other monetary benefits from the date of his re-employment by the Labour Court award dated March 30, 2001. Re-employment means fresh appointment and that is what he claimed before the Labour Court and has an award in his favour. Back wages have been denied for the reason that for a substantial length of time during the interregnum, the petitioner had been gainfully employed as a Chowkidar -cum-Mali in the office of the Divisional Sericulture Officer, Gurdaspur, Tehsil Sujampur, District Gurdaspur (presently District Pathankot) for 12 years and 11 months. He had sought voluntary retirement on February 05, 2003. The Labour Court rightly held that he could not have been employed at two places in the same time. It is in this situation that relief was moulded by the Labour Court for the reason that someone else had been employed in place of the petitioner without complying with the procedure of Section 25-H of the Act. The management had not offered option to the petitioner by serving notice on him for re-employment before it inducts another person on the same post.

6. There is no legal infirmity in the award of the Labour Court or any error apparent on the face of the record warranting interference.

7. I have no reason to tinker with the award of re-engagement in service after passage of many years.
8. Accordingly, the petition is dismissed for lack of merit.

(RAJIV NARAIN RAINA)
JUDGE

30.11.2018
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No