

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-4179-2018 (O&M)
Date of Decision:-03.04.2018.

Executive Engineer, Shahpurkandi Dam Division No.4 and others

.....Petitioners

Versus

Workmen through President, Their Dam Workers Union and another

.....Respondents

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

Present: Mr. Rajbirinder Singh Chahal, Additional A.G. Punjab.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioners have challenged the award dated 1.9.2016 (Annexure P-1).

2.) Respondent-workmen's grievance is that they are entitled to be brought on work-charge establishment w.e.f. 1.10.1995 and, thereafter, to regularize their services w.e.f. 13.03.1996.

3.) Learned counsel for the petitioners submitted that respondent-workmen's services were terminated which was the subject matter of industrial dispute and it was decided in their favour on 6.11.2001 and 14.01.2002. Feeling aggrieved by the award, petitioners filed writ petitions before this Court and suffered order. Consequently, respondents-workmen were taken back to duty in the year 2005 and they have been extended the benefit. Now for the purpose of claiming work charge employee w.e.f.

1.10.1995 and regularization of service from 13.03.1996, they are claiming

benefit under the award dated 6.11.2001 and 14.01.2002 wherein it has been held that respondent-workmen were entitled to continuity of service. In fact respondents have never discharged the duties of the post and they cannot be brought on work charge establishment w.e.f. 1.10.1995 and so also regularization of their services on 13.03.1996. On both the dates, respondents were not in service. Thus, Labour Court has erred in granting the benefit sought by the respondents.

4.) Heard the learned counsel for the petitioners.

5.) Crux of the matter in the present case is whether respondents are entitled to be brought on work charge establishment w.e.f. 1.10.1995 and further are they entitled to regularization w.e.f. 13.03.1996 or not? Undisputed facts are that respondents' services have been dispensed. Consequently, respondents raised industrial dispute and it was in their favour even to the extent of continuity of service. Petitioners filed a writ petition against the award dated 6.11.2001 and 14.01.2002 wherein they have suffered order. Thus, award has attained finality in respect of reinstatement with continuity of service etc. If the award is with continuity of service, automatically respondents are entitled to all service benefits which is available to an employee as if whose services have not been dispensed or terminated. Thus, Labour Court rightly held that respondents are entitled to be brought on work charge establishment w.e.f. 1.10.1995 and they are also entitled to regularization w.e.f. 13.03.1996. In view of these facts and circumstances and the fact that judicial pronouncement is in respect of continuity of service in favour of the respondents, therefore, the said issue cannot be gone into at this stage. Petitioners have not made out a

01.09.2016.

6.) Accordingly, petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

April 03, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.