

In the High Court of Punjab and Haryana, at Chandigarh

1. Civil Writ Petition No. 9391 of 2017

Harish Kumar

... Petitioner(s)

Versus

Presiding Officer, Industrial Tribunal, Patiala and Others

... Respondent(s)

AND

2. Civil Writ Petition No. 9613 of 2017

Krishan Avtar

... Petitioner(s)

Versus

Presiding Officer, Industrial Tribunal, Patiala and Others

... Respondent(s)

Date of Decision: 25.09.2018

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. Ravi Gakhar, Advocate
for the petitioner(s).

Ms. Bhavna Gupta, Deputy Advocate General,
Punjab for respondent No.2.

Mr. H.K.Aurora, Advocate
for respondents No.3 & 4 (In CWP-9391-2017).

Mr. Aman Sharma, Advocate
for respondents No.3 & 4 (In CWP-9613-2017).

Shekher Dhawan, J.

This order shall dispose of two writ petitions i.e. CWP-9391-

2017 and CWP-9613-2017 as in both the cases, petitioners had worked as

Electrician/Helper with the same management i.e. Municipal Council, Nangal. For decision of the case, facts are being taken from CWP-9391-2017.

Petitioner-Harish Kumar challenged the impugned award dated 05.07.2013 (Annexure P1), passed by the learned Presiding Officer, Industrial Tribunal, Patiala (hereinafter referred to as “learned Tribunal”), whereby he was awarded compensation of Rs.17,000/- for his employment from 16.04.1997 to 25.03.2002. He had raised industrial dispute on the ground that his services were terminated by the respondent-management without issuing any notice and no retrenchment compensation was paid to him. The management contested the reference before the learned Tribunal denying the relationship of employer and employee. However, before the learned Tribunal, MW.1-Chetan Sharma had admitted in his cross-examination the version put-forwarded by the workman. Though the management had taken the plea that petitioner-workman was working under the contractor and not the management, but it was not proved before the learned Tribunal. The management could not produce any record and even no name of the contractor could be given and as such learned Tribunal rightly disbelieved the contention of the management that petitioner was working under the contractor and on that basis he was awarded lump-sum compensation of Rs.17,000/-.

Learned counsel for the petitioner contended that petitioner has not been awarded reasonable and fair compensation and he should have been awarded reasonable and fair compensation. The management has not

challenged the award.

Taking into consideration the above facts, this Court is of the considered view that petitioner-workman has been able to prove that he worked with the management from 16.04.1997 to 25.03.2002 and his services were dispensed with without complying with the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. Thus, petitioner is certainly entitled for reinstatement or retrenchment compensation. Taking into consideration the period of employment of the petitioner and the time since his services were terminated, reinstatement would not be the appropriate remedy. Identical matter was before the Hon'ble Division Bench of this Court in ***Bal Kishan v. Presiding Officer 1996(3) S.C.T. 548*** and in view of that, this Court is of the considered view that awarding of lump-sum compensation is the most appropriate relief which can be awarded to the petitioner. But in this case, even reasonable and fair compensation has not been awarded to the petitioner. As such, both the writ petitions i.e. CWP-9391-2017 and CWP-9613-2017 are allowed and petitioners shall be entitled to lump-sum compensation at the rate of Rs.30,000/- each for each completed year or part thereof. The enhanced compensation shall be payable to the petitioners in both the cases within a period of two months from today, failing which they shall be entitled to receive interest at the rate of 9% per annum.

**(Shekher Dhawan)
Judge**

September 25, 2018
“DK”

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No