

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

LPA No. 1008 of 2015 (O&M)
in CWP No. 2540 of 2014

Date of decision : 11.1.2018

Punjab School Education Board and another .. Appellants

versus

Usha Bajaj and another .. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice B.S. Walia**

Present: Mr. S.S. Behl, Advocate, for the appellants.

Ms. Sukhmani T. Patwalia, Advocate for
Mr. Viaks Singh, Advocate, for respondent No. 1.

Rajesh Bindal, J.

By filing the present intra-court appeal, challenge has been made to the order dated 10.2.2015 passed by the learned Single Judge.

Briefly, the facts of the case are that the Labour Court vide award dated 12.4.2001 granted reinstatement with continuity in service and 50% back wages to the workman. The workman was directed to be reinstated within 30 days from the date of publication of the award. The workman had submitted her joining report on 17.8.2001, however, she was not permitted to join as the appellants challenged the award by filing CWP No. 1977 of 2002, which was dismissed by this court on 7.2.2002. It was thereafter that the workman was allowed to join duty on 16.9.2002. The amount of back wages as was directed to be paid was not paid immediately and in its entirety, as a consequence the workman filed application under

Section 33-C(2) of the Industrial Disputes Act, 1947 (for short, 'the Act'), which was adjudicated on 7.3.2013. The Labour Court directed payment of deficit amount and further awarded interest @ 6% per annum from the date of application till realization. The aforesaid award was challenged by the workman by filing Writ Petition claiming that the amount had not been properly calculated and paid. The writ petition was allowed. The differential amount of backwages was directed to be paid along with interest.

The contention raised by learned counsel for the appellants is that application under Section 33-C(2) of the Act is of the kind of execution proceedings. Once there was no claim and award of interest by the Labour Court, there could not be any calculation. To that extent in the award passed by the Labour Court in an application filed under Section 33-C(2) of the Act, deserves to be set aside.

On the other hand, learned counsel for the respondent – workman submitted that there being huge delay even after passing of award of reinstatement with continuity in service, in granting relief to the workman and further she being not at fault and her termination having been found to be wrong, interest has rightly been awarded by the Labour Court and by the learned Single Bench of this Court.

After hearing learned counsel parties, we do not find any error in the order passed by the learned Single Judge.

Admittedly, award of reinstatement with continuity of service with 50% backwages was passed by the Labour Court in favour of the respondent-workman on 12.4.2001 and she was taken back in service only on 16.9.2002. As the amount of backwages was not properly calculated and paid, application has to be filed under section 33-C(2) of the Act and certain

additional amount was directed to be paid. The Labour Court further awarded interest on account of delayed payments, however, from the date of application till realization. The learned Single Bench while correcting the error in the award of the Labour Court with reference to calculation of the amount to be paid to the respondent-workman, granted further interest, specifically noticing that there being delay in payment of dues to the workman, the interest component to be treated as costs/ compensatory damages. The same does not call for any interference by this court.

The appeal is accordingly dismissed.

(Rajesh Bindal)
Judge

11.1.2018
vs

(B.S Walia)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No