

(201) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.1020 of 2015 (O&M)
In CWP No.20653 of 2012
Date of decision: 06.03.2018

Punjab Small Industries and Export Corporation Ltd.
and others

..... Appellants

Versus

Ram Dulari and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL.
HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Pankaj Gupta, Advocate for the appellants.
Ms. Sukhmani Tiwana Patwalia, Advocate for respondent No.1.

B.S. WALIA, J.

1. Intra-court appeal has been filed against order dated 17.03.2015 whereby the Writ Court held respondent No.1/petitioner entitled to reinstatement with continuity of service and compensation of ₹ 60,000/- by setting aside the award of the Industrial Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') awarding compensation of ₹ 10,000/- only.

2. Brief facts of the case leading to the filing of the instant appeal are that respondent No.1/petitioner was employed as a Mali with the appellant-Corporation on compassionate basis with effect from 01.06.2000 on monthly salary of ₹ 1800/- and worked as such upto 03.07.2001, whereafter her services were terminated on 04.07.2001 without serving any notice or charge-sheet. On industrial dispute having been raised by respondent No.1/petitioner, stand of the appellant-Corporation before the

Tribunal was that termination of services of respondent No.1/ petitioner was in view of Circular Annexure P-4 dated 01.06.2001 issued by the Government of Punjab as per which contractual appointments made by Corporations in contravention of Government policy guidelines were ordered to be dispensed with immediately and in view thereof, the services of respondent No.1/petitioner had been terminated. The Tribunal held that although, there was irregularity and illegality in the dispensing of services of respondent No.1/petitioner as she was not given any retrenchment compensation, notice, pay etc., yet she could not be taken back into service and in the aforementioned facts, she was held entitled to lump sum compensation of ₹ 10,000/-.

3. The Writ Court allowed the writ petition and held respondent No.1/petitioner entitled to reinstatement with compensation of ₹ 60,000/- in lieu of back wages by relying upon the decision of Hon'ble the Supreme Court in **Jasmer Singh v. State of Haryana and another, 2015 (4) SCC 458** by observing that once the Tribunal had arrived at the conclusion that the termination of service of respondent No.1/petitioner was in violation of the provisions of Section 25 (F) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act'), there was no occasion for the Tribunal to deny relief of reinstatement. The Writ Court also relied upon the judgment of Hon'ble the Supreme Court in **Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya, 2013 (10) SCC 324** wherein it has been held that injury suffered by a person, who has been dismissed or removed or otherwise terminated from service cannot easily be measured in terms of money. Suffering of the family has to be looked from all corners viz-a-viz deprivation of nutritious food and all opportunities of education and advancement in life and where the action taken by the employer was

ultra vires of statutory provisions as also principles of natural justice, the employee would be entitled to reinstatement and full back wages and in case, the employer wanted to deny full back wages, onus was on the employer to prove that during the intervening period, the employee was gainfully employed.

4. Learned counsel for the appellants contended that in view of service of respondent No.1/petitioner having been dispensed with on account of Circular (Annexure P-4) dated 01.06.2001 issued by the Government of Punjab and respondent No.1/petitioner having worked only for a period of one year, reinstatement was not justified although compensation awarded could be enhanced.

5. We have considered the submissions of learned counsel for the appellants and perused the record.

6. Admittedly, respondent No.1/petitioner was appointed as Mali on compassionate basis by the appellants-Corporation w.e.f. 01.06.2000 for a period of six months on monthly salary of ₹ 1800/- on the death of her husband Ram Parshad who was working as a Chowkidar on Work Charge Basis in the appellant-Corporation. The appointment continued but on 04.07.2001 services of respondent No.1/petitioner were dispensed with purportedly on account of Circular (Annexure P-4) dated 01.06.2001 issued by the Government of Punjab as per which contractual appointments made earlier in contravention of Government policy guidelines were ordered to be dispensed with immediately. No notice nor retrenchment compensation was paid to respondent No.1/petitioner before terminating her services.

7. Once the mandatory provisions of Section 25 (F) of the Act were not complied with then in view of the law laid down by Hon'ble the

Supreme Court in Jasmer Singh's case (Supra) as also the decision in

Deepali Gundu Surwase's case (Supra), no interference is called for with the order passed by the learned Writ Court. Reference can also be made to a decision of Hon'ble the Supreme Court in **Rajkumar Dixit v. Vijay Kumar Gauri Shanker, 2015 (9) SCC 345.**

8. Accordingly, finding no merit in the appeal, the same is dismissed with no order as to costs.

(Rajesh Bindal)
Judge

(B.S. Walia)
Judge

06.03.2018
amit

1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.