

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-1360-2015 (O&M)
Decided on: 28.11.2018

S.N. Dutta

.... Appellant

Versus

Panipat Cooperative Sugar Mills Ltd. Panipat and another
..... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Jatinder Nagpal, Advocate
for the appellant.

Mr. C.B. Goel, Advocate
for respondent No.1.

MANJARI NEHRU KAUL, J

CM-2912-LPA-2015

This is an application under Section 5 of the Limitation Act,
1963 for condonation of 18 days' delay in filing the appeal.

After hearing learned for the parties and perusing the
application, which is supported by an affidavit, the delay of 18 days in
filing the appeal is condoned.

CM stands disposed of.

LPA-1360-2015

In the present Letters Patent Appeal, the challenge is to the
order passed by the learned Single Judge in CWP No.9568 of 1996
decided on 22.07.2015 vide which the writ petition was disposed of after
allowing the workman to retain 25% of the back wages, which had
already been paid to him in pursuance to the order dated 09.07.1996.

Further, the management was also granted liberty to seek/refund of 25% back wages which had been deposited by them in the name of the workman.

2. It is admitted by the learned counsel for the workman that he had been taken back on duty and had also since superannuated. Hence, the award passed by the Labour Court dated 13.09.1995 (Annexure P-3) regarding reinstatement already stood implemented. However, the dispute remained regarding the payment of back wages.

3. The award dated 13.09.1995 was challenged by respondent No.1 by filing CWP No.9568 of 1996. While admitting the said writ petition on 09.07.1996, the learned Single Judge passed orders in the following terms:-

“Admitted.

In the meantime, operation of the impugned award is stayed only to the extent of 50% of the back wages.

This shall also be subject to the following conditions:-

- (a) The workman shall be taken back on duty within one month by sending an intimation to him by registered post;
- (b) Out of the remaining 50% back wages, 25% shall be deposited by the petitioner-mill in a fixed deposit in any scheduled bank in the name of the workman on which he shall get quarterly interest; and
- (c) Remaining 25% be paid to him in cash.”

4. The workman is now claiming full back wages, though as per his own statement before the Labour Court, he has nowhere stated that he had not worked during the period he remained out of job or ever worked on lesser wages. Hence, the workman would not be entitled to back wages as per the law laid down in **Deepali Gundu Surwase vs.**

**Kranti Junior Adhyapak Mahavidyala (D.Ed.) and others 2013(4)
S.C.T.716.**

5. The learned Single Judge disposed of the writ petition by relying upon Deepali Gundu Surwase (supra) and also allowed the workman to retain 25% of the back wages, which were ordered to be paid to him by interim order dated 09.07.1996 while admitting the writ petition. The learned Single Judge modified the award of Labour Court to that extent only.

6. The learned Single Judge besides allowing the workman to retain 25% of the back wages paid to him also held the workman to be entitled to all other benefits for the period when he was taken back into service till his superannuation.

7. We have heard the learned counsel for the parties and perused the paper book.

8. Learned counsel for the appellant was unable to substantiate that the appellant-workman was not gainfully employed during the period he remained out of service. Under such circumstances, no illegality or perversity could be pointed out by the learned counsel for the appellant in the findings recorded by the learned Single Judge which may warrant interference by this Court. Accordingly, finding no merit in the appeal, the same is hereby dismissed.

**(MANJARI NEHRU KAUL)
JUDGE**

**(AJAY KUMAR MITTAL)
JUDGE**

28.11.2018

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No