

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

**L.P.A.No.1833 of 2015 (O&M) in
Civil Writ Petition No.13668 of 2010
Date of Decision: July 17, 2018**

Kulwant Singh

...Appellant

Versus

State of Punjab & others

...Respondents

**CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL
HON'BLE MR.JUSTICE AMIT RAWAL**

**Present: Mr. G.S.Brar, Advocate,
for the appellant.**

**Mr. Jagmohan Ghumman, DAG, Punjab,
for the State.**

AMIT RAWAL, J.

Appellant is aggrieved of the order of the learned Single Judge dated 24.4.2014, whereby the award of the Labour Court dated 21.07.2009 granting compensation to the tune of ₹ 50,000/- in lumpsum, has been modified by enhancing compensation to the extent of ₹ 1,10,000/-.

Mr. G.S.Brar, learned counsel representing the appellant submitted that the order terminating the services of the appellant was illegal, arbitrary and discriminatory, much less in violation of the statutory provisions of the Industrial Disputes Act, 1947 (for short, 1947 Act). The appellant was appointed as Registering Clerk vide appointment letter dated 3.9.2001 by respondent No.3. He was assigned the role for collecting the data of population by visiting door-to-door for the purpose of delimitation of wards of Municipal Corporations and Municipal Council of State of Punjab. Appellant discharged his duties with full dedication, devotion,

honestly and sincerely, but his services were wrongly terminated. It was a perennial job and, therefore, the department could not terminate the services without complying with the provisions of Section 25-F of 1947 Act. The appellant submitted a demand notice under Section 2-A of 1947 Act and the Labour Court instead of ordering reinstatement with back wages, erroneously awarded compensation to the tune of ₹ 50,000/-. Learned Single Judge has also not noticed the fact that the workman had completed 240 days in a calendar year and likely to be increased in time to come, therefore, the department required more work force. The department had adopted unfair labour practice after exploiting the skill and labour of the workman and others for a period of four years and, therefore, compensation cannot be a substitute for re-employment.

Mr. Jagmohan Ghuman, learned Deputy Advocate General, Punjab representing the State defended the order of the learned Single Judge on the premise that the workman was employed on contract basis for doing the job of collecting data of population by visiting door-to-door and his services were no longer required and, therefore, there was no violation of the provisions of Section 25-F of 1947 Act. In fact, the provisions of Section 2(o)(bb) of 1947 Act would apply. The workman has been suitably compensated and, thus, urged for dismissal of the appeal.

We have heard the learned counsel for the parties, appraised the paper book and are of the view that there is no force and merit in the submissions of Mr. Brar, for, learned Single Judge opined that the appointment letter dated 3.9.2001, which was jointly issued to 41 workmen, revealed that it was a contractual appointment for collecting the data of population, thus, there could not have any violation of provisions of Section

25-F of 1947 Act and the Labour Court was justified in not granting the relief of reinstatement and by relying upon the judgment rendered by Hon'ble the Supreme Court referred to therein, ordered for compensation by taking into consideration the fact that the workman had served from March, 1995 to April, 1997 and enhanced the compensation to ₹ 1,10,000/- from ₹50,000/- including ₹ 10,000/- as litigation expenses and ordered for payment of the compensation within a period of two months, failing which it would entail interest @ 9% per annum.

During the course of hearing, on a specific query, it was apprised that the aforementioned compensation was offered to the workman, but he refused to accept the same.

For the reasons aforementioned, no ground for interference in the order under challenge is made out. The Letters Patent Appeal is accordingly dismissed. Consequently, the applications for condonation of delay in filing and refiling the appeal are also dismissed.

(RAJESH BINDAL)
JUDGE

(AMIT RAWAL)
JUDGE

July 17, 2018

ramesh

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No