

**CM-5279-5280-LPA-2016 in/and  
LPA-2542-2016 (O&M)**

**-1-**

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

**CM-5279-5280-LPA-2016 in/and  
LPA-2542-2016 (O&M)  
Date of Decision: August 20, 2018**

Madhu Bala .....Appellant  
Versus  
The Director, Health and Family Welfare, Punjab and others  
.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT  
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr.Surinder Garg, Advocate for the appellant.  
Mr.Rajesh Bhardwaj, Sr.DAG, Punjab.

.....

**SURYA KANT, J.(ORAL)**

**CM-5279-LPA-2016**

Application is allowed as prayed for.

**CM-5280-LPA-2016**

For the reasons mentioned in the application, the same is  
allowed and delay of 21 days in filing the appeal is condoned.

CM stands disposed of.

**LPA-2542-2016**

This Letters Patent Appeal is directed against the order dated  
29.09.2016 whereby learned Single Judge allowed the writ petition filed by  
State of Punjab in part and has held the appellant entitled to lumpsum  
compensation equivalent to the amount paid to her in excess under Section  
17-B of the Industrial Disputes Act, 1947 (for brevity, 'the 1947 Act').

[2] A Coordinate Bench issued notice in this appeal only on the  
limited issue to explore the possibility of enhancement in compensation.

[3] The facts are like this:

[4] The appellant-workman was appointed as Ward Attendant on a Class-IV Post on 89 days basis. She worked for three years and four months. Meanwhile, the post was advertised for regular recruitment. The appellant participated in the selection process but could not be selected. Due to joining of the regular incumbent, services of the appellant were dispensed with. She raised an 'industrial dispute' and the Labour Court, Bathinda vide Award dated 06.10.2010 answered the Reference in her favour and ordered her reinstatement with continuity of service and 50% back wages from the date of demand Notice, i.e. 30.04.2001.

[5] State of Punjab challenged the Award before this Court in a writ petition in which the reinstatement was stayed subject to compliance of Section 17-B of the Act.

[6] It further appears that the appellant was paid a sum of ₹3,61,863 towards wages under Section 17-B of the Act out of which State of Punjab claimed that ₹2,80,643 were paid in excess.

[7] Learned Single Judge vide order under appeal has summarily allowed the writ petition and held the appellant entitled to compensation to the extent of excess amount paid to her under Section 17-B of the Act. It is in this backdrop that the appellant seeks re-instatement or enhancement in compensation.

[8] We have heard learned counsel for the parties. It is true that the learned Single Judge has not assigned reason(s) for setting aside the Award passed by the Labour Court, but the fact of the matter is that the appellant

could not be selected though she participated in the selection process for regular appointment and her services were dispensed with due to joining of a regular incumbent. In such a situation, no fault can be found with the action of the authorities in dispensing with her services. However, the respondent-authorities were still obligated to follow the procedure contemplated under the 1947 Act. This is an admitted fact that no retrenchment compensation was paid to the appellant while dispensing with her services.

[9] The appellant can not be reinstated as a regular incumbent has been already appointed in her place. She can only be compensated in monetary terms as has been rightly done by the learned Single Judge. However, taking into consideration the social background of the appellant, her financial status and the fact that she has been awaiting since 2010 for her reinstatement, coupled with the fact that by now she must be over-age for government employment, we enhance the total amount of compensation to ₹5.00 lacs out of which ₹3,61,863/- already stand paid to her. The balance amount of compensation shall be paid to her within a period of four months without interest. In the event of delay, the appellant shall be entitled to simple interest @7%.

[10] Disposed of.

**( SURYA KANT )  
JUDGE**

**August 20, 2018**  
meenuss

**( SUDIP AHLUWALIA )  
JUDGE**

- 1. Whether speaking/reasoned ?**
- 2. Whether reportable ?**

**Yes/No**  
**Yes/No**