

LPA-2214-2017 (O&M)

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

LPA-2214-2017 (O&M)

Date of Decision: August 06, 2018

Sunil Kumar

.....Appellant

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon and
others

.....Respondents

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

Present: Ms.Amandeep Kaur, Advocate for
Mr.Ramesh Sharma, Advocate for the appellant.

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SURYA KANT, J.(ORAL)

The appellant is aggrieved by the order dated 20.09.2017 whereby learned Single Judge has dismissed his writ petition in which he challenged the Award of the Labour Court dated 08.10.2013 whereby the payment of back-wages was restricted to 40% only. In other words, the appellant claims that he ought to have been awarded full back-wages.

[2] From the contents of the Award dated 08.10.2013 passed by the Labour Court-I, Gurgaon, as well as the order of learned Single Judge, it is revealed that the appellant joined the respondent-Management as an 'Executive Liasoning' w.e.f.15.07.2009 in the field Office at Rewari on a monthly salary of ₹12,000/-. The appellant was transferred from Rewari to Madinapur, Kolkata (West Bengal). He demanded the advance travelling/transportation expenses, which were not paid. The appellant did

not join the new place of posting, hence his services were dispensed with on

30.10.2010. The appellant then raised the industrial dispute and claimed that nomenclature of the posts given to him was 'misnomer' and, in fact, he is a 'workman' within the meaning of Section 2(s) of the Industrial Disputes Act, 1947.

[3] It appears that the Management did not contest the Reference which was answered in favour of the appellant to the extent that he was held entitled to reinstatement in service with continuity of service and 40% back-wages. The said part of the Award was challenged by the appellant but learned Single Judge has declined to interfere with the same.

[4] We have heard learned counsel for the appellant and gone through the record. The award of back-wages, ordinarily is a discretion vested in the Labour Court, to be exercised keeping in view the fact that whether the workman during the intervening period remained employed and earned livelihood or was seated idle at home. The Labour Court, having regard to the qualification etc., possessed by the appellant, came to the conclusion that he is entitled to 40% back-wages only. Learned Single Judge has also found that the Award of 40% back-wages is fair, just and equitable. We are, thus, of the view that the impugned order does not suffer from any illegality or irregularity to warrant any interference.

[5] Dismissed.

**(SURYA KANT)
JUDGE**

August 06, 2018

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**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned ?

Yes/No

2. Whether reportable ?

Yes/No