

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

LPA-1231-2018 (O&M)
Date of Decision: October 26, 2018

Raj Pal

...Appellant

Versus

Union of India and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE.**

HON'BLE MR. JUSTICE ARUN PALLI, JUDGE.

**Present: Mr. D.R. Sharma, Advocate,
for the appellant.**

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment, dated 26.04.2018, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant-workman against the award, dated 30.12.1998, passed by the Labour Court, whereby the claim of the workman for reinstatement with consequential relief was rejected, has since been dismissed.

Upon a consideration of the matter and material on record, the learned Single Judge reached a conclusion that the appellant-workman was appointed as a daily wager on 03.03.1986. Whereafter, his services were brought to an end on 21.02.1987. Subsequently, he was re-employed but through a contractor on 22.02.1987. But again his services stood terminated on 01.10.1987. Thus, concededly he had not rendered service for a period of 240 days in the 12 preceding calendar months before termination of his services on 21.02.1987. However, still a relationship of

employer and employee existed between the parties even after 22.02.1987 to 01.10.1987, even though the appellant-workman was employed through a contractor. No material was brought on record by the respondent-company as regards engaging the services of the appellant-workman through contractor in accordance with the policy, if any, of the respondent-company. Thus, even though there was a lapse on the part of the respondents, but in the wake of the above and in reference to the decision of the Supreme Court in the case of **B.S.N.L. v. Bhurumal, (2014) 7 SCC 177**, the learned Single Judge held that rather than re-instatement in service, the appellant-workman would be entitled to compensation of Rs.1,00,000/-.

The argument advanced by the learned counsel for the appellant that in terms of the policy dated 08.04.1987 (Annexure P-1), issued by the respondent-company, services of the co-employees, who were identically situated and circumstanced as the appellant-workman, were regularised, thus, the services of the appellant-workman too ought to have been regularised, lacks conviction and cannot be countenanced. Indisputably, the services of the appellant-workman were terminated on 21.02.1987, whereas the alleged policy came into being on 08.04.1987, i.e. post termination of the appellant-workman would, thus, have no bearing in the matter at hands. Needless to assert that since the services of the appellant-workman had been terminated, for him to seek regularisation, he had to first establish that his termination was unlawful/unjustified. For, it was only after his reinstatement he could seek regularisation. Further, the

day the said policy came into force, the appellant-workman was not in the employment of the respondent-company, but of the contractor. Besides that the specific case set out by the respondent-company before the Labour Court was that the appellant-workman was engaged occasionally for a part time job as waterman, and since he had not rendered 240 days of service, he could not seek regularisation of his services in terms of the policy dated 08.04.1987. *Ex facie*, the appellant-workman had rendered less than one year service, and post his termination 31 years have gone by. Thus, in the given situation his reinstatement into service would not have been conducive to industrial peace and harmony. On being pointedly asked, the learned counsel for the appellant-workman could not refer to anything on record to show if the conclusions recorded by the Labour Court as also the learned Single Judge were either contrary to the record or suffered from any material illegalities.

In conspectus of the above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being devoid of merit is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

October 26, 2018
Pkapoor

Whether Speaking/Reasoned: YES / ~~NO~~
Whether Reportable: ~~YES~~ / NO

103 CM-3315-LPA-2018

CM-3316-LPA-2018
IN LPA-1231-2018

Raj Pal v. Union of India and others

Present: Mr. D.R. Sharma, Advocate,
for the appellant.

CM-3315-LPA-2018:

For the reasons set out in the application, which is duly supported by an affidavit, the same is allowed. Consequently, the delay of 23 days in re-filing the accompanying appeal is condoned.

CM-3316-LPA-2018:

For the reasons set out in the application, which is duly supported by an affidavit, the same is allowed. Consequently, the delay of 4 days in filing the accompanying appeal is condoned.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

October 26, 2018
P Kapoor