

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

**LPA No.857 of 2017
Date of Decision :02.07.2018**

District Programme Officer, Women and Child Development Rohtak

.....Appellant

Versus

Smt. Kamla and another

..... Respondents

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

Present : Mr. Deepak Balyan, Addl. A.G. Haryana for the appellant.

ARUN PALLI, J. (Oral):

This is an *intra court* appeal under Clause X of the Letters Patent against the order and judgment dated 03.08.2015, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant against the award dated 16.10.2014, passed by the Labour Court, had since been dismissed.

The respondents-workman was employed with the appellant as Sweeper since 20.01.1996. However, her services were abruptly brought to an end on 21.03.1998. Upon an industrial dispute being raised, the Labour Court vide its award dated 5.8.2003, ordered her re-instatement with continuity of service and 50% back-wages from the date of demand notice i.e. 15.06.1999. As a result, she re-joined her duties. However, again her services were terminated on 19.01.2007, and vide award in question the

Labour Court held her termination to be illegal and she was re-instated with continuity of service and 50% back-wages. On a consideration of the matter and the material on record the learned Single Judge reached a conclusion that successive terminations of services of the respondent-workman, as demonstrated above, was nothing but an unfair labour practice. Further, it was duly proved that post termination of her services the appellant employed one Mukesh Kumari in her place, thus, her termination was even violative of the provision of Section 25-H of the Industrial Disputes Act, 1947. Record shows that a day prior to the termination of the services of the respondent-workman, vide letter dated 18.01.2007 (Ex.M-7), she was even issued a warning, but nothing was brought on record to show that the said letter was received by her. In case the respondent-workman was not performing her duties diligently or was guilty of any mis-conduct the appellant ought to have resorted to the process admissible in law. But instead her services were terminated the next day i.e. on 19.01.2007, which rather shows that appellant wanted to get rid of the respondent-workman somehow or the other. On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusion recorded by the learned Single Judge was either contrary to the record or suffered from any material illegality. Yet another aspect that needs to be noticed is that re-instatement of the respondent-workman was ordered by the Labour Court as back as on 16.10.2014, and in the absence of any stay order granted by this Court in the writ petition, the presumption is that in all probabilities the respondent-workman must have been re-instated.

However, the learned State counsel expresses his inability to clarify the true position in this regard. Be that as it may, in conspectus of the above, the appeal being devoid of merit is accordingly, dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

02.07.2018

Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No