

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

LPA No.592 of 2018
Date of decision: 12.07.2018

Raj Kumar

... Appellant

Versus

Presiding Officer, Central Govt., Industrial Tribunal-cum-Labour Court-I,
Chandigarh and others

... Respondents

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

Present: Mr. Pawan Kumar Longia, Advocate for the appellant.

ARUN PALLI, J. (Oral)

This is an intra-court appeal under Clause X of the Letters Patent against order and judgment dated 14.02.2018 rendered by the learned Single Judge, vide which the award dated 20.11.2013 passed by the Labour Court was modified and the writ petition preferred by the appellant was accordingly disposed of.

In brief, the case set out by the appellant has been that he was engaged by the respondent-bank as Peon/Daftri in Mandi Branch since January, 2004 on daily wages. He had represented to the respondents to regularize his services, but instead his services were terminated on 01.09.2008 without complying the mandatory provisions of the Industrial Disputes Act, 1947 (for short, 'the Act').

In defence, it was pleaded by the respondents that the workman was never employed as Peon/Daftri as alleged, and he was not on the rolls of the bank either. In fact, he was merely engaged as a casual worker and he never completed 240 days in any of the calendar year.

On a consideration of the matter and the evidence on record, the Labour Court reached a conclusion that while terminating the services of the appellant, the provisions of Section 25F of the Act were not complied with and, therefore, his termination was illegal. But yet in lieu of reinstatement he was rather awarded Rs.6,525/- as compensation and Rs.5,000/- as litigation expenses.

Although, the learned Single Judge affirmed the view of the Labour Court: that as services of the appellant were terminated as back as in the year 2008 and, therefore, at such a belated stage it would not be appropriate to order his reinstatement, however, in reference to the decision of the Supreme Court in **Bharat Sanchar Nigam Limited v. Bhurumal, (2014) 7 SCC 177**, enhanced the compensation awarded to the appellant from Rs.11,525/- to Rs.2,25,000/-.

Learned counsel for the appellant submits that once the services of the appellant were terminated in violation of the provisions of Section 25F of the Act, the appellant ought to have been reinstated in service rather than awarding any compensation. However, in the alternatives, it is urged that in **Bhurumal's case** (supra) itself, the Supreme Court had awarded Rs.3,00,000/- by way of compensation even though the workman therein had worked for 2 years.

We have heard learned counsel for the appellant and perused the record, however, we are unable to persuade ourselves to interfere with the impugned order and judgment.

Concededly, termination of services of the appellant was held to be invalid on account of breach of the provisions of Section 25F of the Act. And the Supreme Court in the case of **B.S.N.L. v. Man Singh**, 2012(1) SCC 558 had held that if the termination is set aside owing to the violation of the provisions of Section 25F of the Act, it is not necessary that relief of reinstatement has to follow as a matter of right. Likewise, in **Incharge Officer & Anr. v. Shankar Shetty**, 2010(9) SCC 126, it was observed that in those cases where the workman had worked on daily wage basis for a period of 240 days or 2-3 years, and the termination had taken place many years ago, the recent trend was to grant compensation rather than reinstatement. In the matter at hands, the services of the appellant were terminated nearly a decade ago, which is why the learned Single Judge did not deem it appropriate to interfere with the award or order reinstatement of the appellant. Similarly, we too are of the view that in the given facts the reinstatement of the appellant shall not be conducive to the industrial peace and harmony. Even the argument that compensation awarded to the appellant is inadequate, lacks conviction and cannot be countenanced. Ex facie, the appellant was awarded Rs.11,525/- by the Labour Court and the learned Single Judge considering the facts that the appellant had worked for a period of 4½ years enhanced the compensation to Rs.2,25,000/-. Undoubtedly, in **Bhurumal's case** (supra), the Supreme Court had awarded Rs.3,00,000/- as compensation in lieu of reinstatement, for, the workman therein remained in service for a period of 2 years i.e. 2001 & 2002, contrary

to his claim that he had served for a period of 15 years. However, what needs to be noticed herein is that although the appellant had claimed to have been employed as Peon/Daftri, but he was engaged as a casual worker, and was assigned duties on day to day basis as and when required. The case of the appellant himself before the Labour court was that he had submitted an application for the post of Peon/Daftri, but the same was rejected as he was not eligible being over age. Further, there indeed cannot be any straitjacket formula or a definite criteria, for, largely the evaluation or assessment of compensation awarded in lieu of reinstatement would depend upon the facts and circumstances of every given case.

Thus, in our considered view, the enhancement awarded by the learned Single Judge from Rs.11,525/- to Rs.2,25,000/- is just and appropriate, and therefore the discretion exercised by the learned Single Judge does not warrant any interference. The appeal is accordingly dismissed being devoid of merit.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

12.07.2018

Rajan

Whether speaking / reasoned:

YES

Whether Reportable:

NO