

CR-5336-2015 (O&M)

203

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

CR-5336-2015 (O&M)

Date of decision : 29.04.2019

Sarabjit Ram

... Petitioner

Versus

Ranbaxy Laboratories Ltd. and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Arun Takhi, Advocate
for the petitioner.

Mr. Arun Abrol, Advocate
for the respondents.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned order, whereby the execution application of the petitioner-workman seeking implementation of the award dated 26.04.2012 (Annexure P-5), passed by the Labour Court, has been dismissed.

Mr. Takhi, learned counsel appearing on behalf of the petitioner submitted that the petitioner had been working as a Plant Helper with the respondents-Management, since 27.01.1998. His services were illegally terminated and at that time, he was drawing a salary of ₹2250/- per month. The matter was sought to be referred to the Labour Court and vide claim dated 25.07.2002, all the aforementioned assertions were made and the defendants/respondents did not deny the status of Plant Helper, but

CR-5336-2015 (O&M)

claimed that it was consolidated salary of ₹2,200/- and not ₹2,250/-. On the basis of the aforementioned evidence and other material on record, the Labour Court, vide award *ibid*, granted the following relief:-

"The workman shall not be entitled for the back wages from the date of joining duty till the passing of the award. But the workman while taking the benefits of continuous service is entitled for re-instatement. In case, the workman is not allowed to join duty within 30 days then the workman shall be entitled to re-instatement with continuity service along with full back wages from the date of award. The file be consigned to the record room."

The petitioner submitted the joining report on 21.05.2012, but was appointed as Temporary Helper, whereas the salary of the Plant Helper and Temporary Helper was not the same and therefore, there was non-compliance of the award. The reinstatement with continuity of service means entitlement to all the notional benefits. In support of his contentions, relies upon the *ratio decidendi* culled out by the Division Bench of Delhi High Court in **"Mahabir Prasad V/s Delhi Transport Corporation" 2014 (212) DLT 503**, thus, urges this Court for setting aside the impugned order.

Mr. Abrol, learned counsel for the respondents relies upon the *ratio decidendi* culled out by Hon'ble the Supreme Court in **"Andhra Pradesh State Road Transport Corporation and others V/s Abdul Kareem" 2005 AIR (SC) 3791** and submitted that the award of the reinstatement without back-wages, notional increments cannot be granted to the employee, for which, he was not in service, in the absence of specific directions, in this regard. In other words, it was contended that reinstatement with continuity services would not be considered for granting

CR-5336-2015 (O&M)

the aforesaid benefits. The documents shown to this Court, during the course of the day, are not part of the record, therefore, the impugned order, under challenge, cannot be said to be suffering from infirmity, thus, urges this Court for dismissal of the present revision petition.

I have heard learned counsel for the parties, appraised the paper book.

On perusal of the aforementioned award, it is evident that the petitioner was ordered to be reinstated without back wages, but with continuity of service. The trial Court, after accepting the objection of the Management, vide impugned order, has observed as under:-

"This Court has gone through the file and considered the submissions. The Award, which has been passed in favour of the decree holder is that he be reinstated with immediate effect and the decree holder shall not be entitled to back wages, but he shall be entitled to continuity of service and that if the decree holder is not joined within 30 days, he shall be deemed to have joined serves w.e.f. Passing of the order. Only point for contention in this application is the effect of the continuity of service having been provided to the decree holder. By applying the ratio of the judgment referred to by the objector, this Court is of the view that merely because continuity of service had been granted, it would not mean that the decree holder also entitled to notional increments from the date of dismissal till passing of award and hence, the present application is not maintainable and the same is hereby dismissed. File be consigned to record room."

In my view, the aforementioned observations, are totally not in accordance with the record, but the Court, below, could have asked the parties to place on record the material to establish particularly the

CR-5336-2015 (O&M)

Management as to whether the workman/petitioner had been appointed on the same post i.e. Plant Helper or the Temporary Helper, on the same pay scale. Though an attempt was made to demonstrate the stark differences and the alleged discrimination, much less, disrespect or circumventing of the award, I am of the view that the matter is required to be revisited by the Executing Court, considering all the observations including the judgment cited at bar. Resultantly, the impugned order, under challenge, is hereby set aside and the matter is remitted to the Executing Court to decide the execution application afresh, by giving opportunity to the parties to place on record material with regard to the compliance of the Award, as expeditiously as possible.

The parties or through their counsel are directed to appear before the Executing Court on 27.05.2019.

With the aforesaid observations, the present revision petition stands disposed of.

29.04.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**