

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 14.02.2019****CWP No.11191 of 2012**

M/s Sunstar Overseas Ltd.

...Petitioners

Vs.

Presiding Officer, Industrial Tribunal -cum- Labour Court, Panipat &
another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINAPresent: Mr. Raghav Goel, Advocate, for
Mr. Harkesh Manuja, Advocate, for the petitioner.

Mr. R.S.Budhwar, Advocate, for respondent No.2.

RAJIV NARAIN RAINA, J. (ORAL)

1. When the matter came up for the first time on 31.05.2012,
while issuing notice qua back wages, the following order was passed:

“Having heard learned counsel for the petitioner on the
impugned award, I do not find any infirmity in so far as the issue of
reinstatement is concerned.

However, on the issue of grant of back wages, learned
counsel for the petitioner submits that the labour court has given a
finding that the workman had neither led any evidence nor produced
any document to prove his date of appointment with respondent-
management.

Notice regarding back wages returnable on 20.09.2012.

In the meantime, the impugned award to the extent of back
wages shall remain stayed till further orders.”

2 On that date, it transpired that the petitioner has already reached the age of superannuation and, therefore, reinstatement was not possible. The Labour Court had held the termination to be illegal and awarded reinstatement with continuity of service and 50% back wages from the date of demand notice i.e. 13.12.2005 till 20.01.2012.

3. The moot point for determination arises with reference to Ex.MW2/1, which was alleged to be a writing of workman/respondent No.2 in which he is stated to have written as follows:

“Sir,

I, Karan Singh son of Chandan Singh, am permanent resident of Village Panchi Jatan. I have left the job from Sunstar Overseas Ltd. So, my PF should be paid to me which is from 2002 to 2005.”

4. The Labour Court has returned a finding that this letter is not genuine and authentic and was written by the management to save itself from liability. In my opinion, this finding of fact recorded by the Labour Court is not to be disturbed lightly. Hence, the mainstay of the contention of the learned counsel for the petitioner in challenge to the award is falsified by the Labour Court after properly appreciating the evidence on record and drawing its conclusions to grant relief, one of which is no longer executable, while the other capable of being handed down to the pocket of the respondent.

5. As there is no legal infirmity or a fundamental error in the award, the workman, in my considered opinion, has a right to 50% back wages as a result of the award of the Labour Court. Thus, the management is directed to pay a sum of Rs.1,13,650/- [1550x12x6+1550 (1 month's wages) from 13.12.2005 (date of demand notice) to 20.01.2012 (date of award) = about 6 years & 1 month] along with interest at the rate of 6% p.a.

as due and payable to the workman. The amount is directed be paid within two months from the date of receipt of a certified copy of this order.

6. With these observations and directions, the petition stands disposed of with the award modified as above.

14.02.2019

Vimal

**[RAJIV NARAIN RAINA]
JUDGE**

Whether speaking/reasoned:

Yes

Whether Reportable:

Yes/No