

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21351 of 2013 (O&M)
Date of Decision: 12.03.2019

Executive Engineer, Uttar Haryana
Bijli Vitran Nigam Limited

... Petitioner

Versus

Subhash and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. P.S. Punia, Advocate,
for the petitioner.

Mr. Sandeep Singal, Advocate,
for respondent No.1.

RAJIV NARAIN RAINA, J.

1. The Nigam has approached this Court assailing the award of the Industrial Tribunal, Rohtak dated May 01, 2013 praying that it be set aside.

2. The Labour Court has rejected the objection of the management that the case falls in the exception to Section 2 (oo) (bb) of the Industrial Disputes Act, 1947 ("1947 Act"). To bring a case within the ambit of Section 2 (oo) (bb) there must be a stipulation contained in a contract of employment prescribing fixed tenure of service and after efflux of which period worker's contract of service is not renewed. If it is so, the case is not one of retrenchment. If Section 2 (oo) (bb) is attracted then there is no necessity of compliance of the provisions of Section 25-F of the 1947 Act. The Nigam is unable to show any document on the basis of which benefit of the exception can be taken by the management. If the case did not fall in

Section 2 (oo) (bb) then retrenchment or termination could have only been brought about by compliance of Section 25-F of the 1947 Act. This mandatory law was not complied with at the time of retrenchment leading to declaration that termination was illegal and ab initio void. There is no evidence that the respondent was appointed as Part Time Sweeper in 1996 which dispute need not be gone into except to say that his services were wrongly terminated on January 01, 2001 and there was ensuing litigation between the parties. Thereafter, the writ petition filed by the workman in this Court was disposed of with the liberty to the workman to approach the Labour Court. That is how the demand notice was issued on March 16, 2006 raising an industrial dispute.

3. I am satisfied that the period between January 01, 2001 and March 16, 2006 is the period of time spent in bona fide litigation involving the parties and that period has been accounted for in diminishing arrears of back wages by 50% while awarding reinstatement with continuity of service in the original status at the time of termination.

4. I find no good reason to interfere with the award as it suffers from neither any illegality, perversity, irrationality or any error apparent on the face of record.

5. Dismissed with no order as to costs.

(RAJIV NARAIN RAINA)
JUDGE

12.03.2019
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No