

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 18.01.2019****CWP No.25070 of 2012**

Paramjit Singh

...Petitioner

Vs.

The Presiding Officer, Industrial Tribunal, Patiala & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Puneet Gupta, Advocate, for the petitioner.

Ms. Aakanksha, AAG, Punjab, for respondents No.2 & 3.

RAJIV NARAIN RAINA, J. (ORAL)

1. The Industrial Tribunal at Patiala has returned a finding while answering the reference that the termination was illegal for non-compliance of Section 25-F of the Industrial Disputes Act, 1947. The services of the petitioner were terminated on 20.05.2001 unceremoniously without notice, payment of compensation etc. Ordinarily a declaration of nullity of a termination order would lead to reinstatement and full back-wages. However, departures have been judiciously made from time to time by applying guiding principles in the matter of extent of adequate and reasonable award of monetary relief in those cases where reinstatement may not be felt justified in the judicial discretion of the court for reasons recorded and instead the alternative relief is moulded to sub-serve the ends of justice.

2. In the present case, the petitioner used to work as a daily-wage employee in a Seed Farm at Nabha, when his services were brought to an end. The Presiding Officer, Industrial Tribunal, Patiala by the impugned award dated 10.04.2012, which has not been assailed by the State, has awarded ₹40,000/- as compensation in lieu of reinstatement. The Tribunal has applied the quantum of monetary relief handed down by the Supreme Court to the worker in Haryana State Electronics Development Corporation Ltd. Vs. Mamni, 2006 (2) LLJ 744. *Mamni* was a case of ad hoc appointment initially for a period of 89 days as Junior Technician (Electronics) in October 1991 and she had no right to regular appointment. There were breaks and absences from work in the extensions. Her services were terminated in August 1992. She raised a dispute which was adjudicated by the Labour Court in its award made in May 2003 granting reinstatement and full back wages. This Court dismissed the case filed by the Corporation in 2004 by maintaining the award. In appeal to the Supreme Court, the plea of the corporation was accepted that it was not a case for reinstatement and back wages in full. Accordingly, reinstatement was declined and compensation in lieu thereof was granted by keeping quantified at ₹25,000/- in view of the fact that she was not in service since 1992. The Labour Court has blindly applied that case on quantum without having regard to the facts of this case, the character of employment and the length of service.

3. No doubt, the workman had admitted in his cross-examination that the Seed Farm at Nabha has been closed, but in industrial law closure of one unit of a Government Department may lead to a right to be posted to a running unit nearby and at least such offer should have been made by the Government to adjust the person in another running farm as nearby as

possible from place last worked. However, in the present case there is no proof of closure as the evidence/defence of the management was closed by order. Keeping in view this in mind, this Court by interim order dated 21.11.2018, had as an interim measure enquired of the petitioner whether he would accept the offer of the Department to join at Train Farm, Patiala and to report to the Plant Protection Officer posted there, on 28.11.2018. The interim measure was made subject to outcome of the case.

4. Today, the petitioner is present in Court in person and on his instructions Mr. Gupta informs that Train Farm, Patiala is 70 Kms. distant from the village where the petitioner lives i.e. Village Rampur Channa, PO Amargarh, Tehsil Malerkotla, District Sangrur. The job is also not regular and workers are called to work as and when required. For work done, ₹300/- per day is paid as wages. The cost of commuting to and fro would be far too burdensome for him to accept this offer. Since the interim measure has no practical use or significance, the arrangement is recalled and the parties have been heard on the merits of the case.

5. In order to put an end to the dispute, the petitioner has given up his right to reinstatement as it would serve no useful end in the facts and circumstances and instead he presses for enhancement of compensation in the light of developments of law after *Mamni's* case. In this regard Mr. Gupta relies on the decisions of the Supreme Court in BSNL Vs. Man Singh, (2012) 1 SCC 558; BSNL Vs. Bhuremal, (2014) 7 SCC 177 and Assistant Engineer, Rajasthan Development Corporation & another Vs. Gitam Singh, (2013) 5 SCC 136 as well as of Division Bench of this Court in Municipal

Council, Dina Nagar Vs. Presiding Officer, Labour Court, Gurdaspur,
(2015) 1 RSJ 765 for enhancement of compensation.

6. It is not disputed that petitioner had served for about 7 years and 3 months at the time of termination. In case, we follow the broad rule in the Division Bench judgment in *Municipal Council, Dina Nagar*, that would bring about ₹7 lakhs as compensation, i.e. ₹1 lakh per year of service for illegal termination. Even if we apply the quantum of compensation in *Man Singh, Bhuremal* and *Gitam Singh* cases, the compensation would be somewhere in the region of ₹3 to ₹5 lakhs by the multiplier method having regard to the number of years of service. The Industrial Tribunal has given no reason to arrive at the figure of ₹40,000/- and that is clear ipse dixit. There is no strait-jacket formula devised by Courts for relief of compensation and verily none can be fixed, as each case has to be decided on its own facts and from case to case.

7. Keeping in view the totality of facts and circumstances of this case, I am inclined to think it appropriate to multiply ₹40,000/- by 7 years of service ($40,000 \times 7 = 2,80,000/-$) and by adding ₹20,000/- to rounded off the figure at ₹3,00,000/- as compensation. This figure would include 6% interest awarded by the Tribunal on ₹40,000/-. All of these merged together represent total compensation of ₹3,00,000/- to be paid by respondents No.2 & 3 to the petitioner/workman within two months from the date of receipt of a certified copy of this order to bring an end to the dispute.

8. Accordingly, this petition succeeds partly. Reinstatement is denied and compensation to the tune of ₹3,00,000/- in lieu of reinstatement is awarded by modifying the impugned award.

9. It may be noticed that the evidence of the department was closed by order of the Tribunal dated 13.01.2010. As a result, there is no rebuttal to the pleas of the petitioner before the Industrial adjudicator. If the management failed to appear before the Tribunal to contest the claim and got its evidence closed, then it would be in the interest of justice to permit the State after making payment to recover the amount of ₹3,00,000/- from those officer(s)/official(s), who may be held responsible for the same so that the State Exchequer ultimately is protected.

18.01.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>