

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 08.01.2019****CWP No.9486 of 2014**

Ishwar Nath Jha

...Petitioner

Vs.

Presiding Officer, Industrial Tribunal, Bathinda & others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

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

None for respondent No.2.

Mr. Paul S. Saini, Advocate, for respondent No.3.

RAJIV NARAIN RAINA, J. (ORAL)

There is a misdescription in cause-title in the reference and in this petition. The 3rd respondent is the Indian Oil Corporation Limited, which is represented by Mr. Paul S. Saini, Advocate.

The claim is against the 2nd respondent i.e. M/s Malwa Motors. As per office report dated 23.12.2014, M/s Malwa Motors was served with the summons issued by this Court with the next date of hearing fixed at 05.01.2015. No one has entered appearance on behalf of 2nd respondent despite service. In these circumstances, 2nd respondent is proceeded against ex parte.

The petitioner challenges the award dated 08.01.2014 limited to the compensation awarded in lieu of reinstatement. Mr. Arun Chandra, learned counsel appearing for the petitioner, submits that ₹27,000/- only as

compensation is inadequate, unreasonable and in arbitrary exercise of discretion as no reason whatsoever has been given by the Presiding Officer, Industrial Tribunal, Bathinda to reach and justify this meager figure.

I find substance in the contention of Mr. Chandra that the amount of compensation awarded is based on ipse dixit and, therefore, interference is called for against the award regarding quantum of compensation. I am told that the petitioner had served for more than three years before his services were terminated. At the time of termination, the petitioner was earning ₹1300/- per month as a Depot Assistant in a retail outlet of erstwhile IBP. In the year 2007, IBP merged with the Indian Oil Corporation Limited. There is reliable evidence on record in the shape of statement of MW-3 Amrit Lal, Clerk, BCL, Bathinda that the petitioner was employed with the Bathinda Chemicals Limited from May, 2002 onwards and drew salary Rs.17,500/- per month as an Accountant. Accordingly, the petitioner was out of service for about 53 months till he found employment with BCL. Accordingly, at the rate of ₹1300/- per month, these 53 months of forced idleness would represent an amount of ₹68,900/- ($1300 \times 53 = 68,900$). At least, this amount deserves to be awarded to the petitioner.

However, to balance the interests having regard to the fact the termination was brought about illegally due to non-compliance with the mandatory procedure for retrenchment, I would apply the quantum of compensation indicated by the Division Bench of our Court in Municipal Council, Dina Nagar Vs. Presiding Officer, Labour Court, Gurdaspur, (2015) 1 RSJ 765, where the rough rule of about ₹1,00,000/- to ₹1,25,000/- has been suggested as appropriate compensation for each year of completed service as the rule to apply in this case. Compensation packages are usually

rough estimates of assessment on known legal parameters gained by experience from case law.

Keeping in view all these factors in mind, I would partly allow this petition by modifying the impugned award dated 08.01.2014. The petitioner is held entitled to an amount of ₹3 lakhs as just and adequate compensation for three years of service, which includes ₹68,900/-. The amount so calculated be paid to the workman – petitioner by the 2nd respondent i.e. M/s Malwa Motors within a period of two months from the date of receipt of a certified copy of this order, supplied either from this Court or by the petitioner, whichever is earlier, failing which the amount in default will carry interest at the rate of 10% per annum till payment.

Registry to send a copy of this order to the 2nd respondent.

08.01.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

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