

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

LPA No. 2393 of 2016 (O&M)

Date of decision : 8.7.2019

The Executive Engineer,
PWD Public Health Division No. 2, Pataudi, Gurgaon. Appellant

versus

Sukhdev and another ... Respondents

**Coram: Hon'ble Mr. Justice Rajiv Sharma
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present Mr. G. S. Wasu, Additional Advocate General, Haryana.

Rajiv Sharma, J.

CM No. 4980-LPA of 2016

Civil Misc. is allowed. Delay of 182 days in filing the appeal is
condoned.

LPA No. 2393/2016

1. The present Letters Patent Appeal is instituted against the
judgment rendered by learned Single Judge in Civil Writ Petition No. 11191
of 2005 Sukhdev vs Presiding Officer, Labour Court, Gurgaon and another,
on 4.5.2016.

2. The brief facts necessary for the adjudication of the case are
that respondent-Sukhdev was appointed as Mali-cum-Chowkidar on
18.5.1995 on muster roll basis. He was retrenched on 21.8.1997. He raised
an industrial dispute. The matter was referred to Labour Court, Gurgaon.

The parties led their evidence. The learned Labour Court declared that retrenchment of the respondent-workman was in violation of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter to be referred as 'the Act'). The learned Labour Court has only awarded the compensation of ₹ 1,20,000/-, instead of ordering reinstatement of the respondent-workman with continuity in service with full back wages.

3. The respondent-workman filed writ petition against the award made by the Labour Court on 3.11.2004 in this Court. The learned Single Judge vide order dated 4.5.2016 disposed of the writ petition after hearing the parties.

4. Learned counsel for the appellant did not dispute the fact that service conditions of Subhash, Sajjan Singh and Sahi Ram were similar vis-a-vis the service condition of the respondent-workman.

5. The learned Single Judge has also noticed that the respondent-workman was appointed on 18.5.1995 before the appointment of three persons, namely, Subhash, Sajjan Singh and Sahi Ram. They were also retrenched and they approached the Labour Court. The learned Labour Court had directed their reinstatement with 50% back wages. The award in respect of Subhash, Sajjan Singh and Sahi Ram was implemented. It is in these circumstances, the learned Single Judge modified the award dated 3.11.2004 and ordered reinstatement of the respondent-workman with 50% back wages and the award awarding compensation of ₹ 1,20,000/- was set aside. The workman was held entitled to be reinstated with continuity in service with 50% back wages at par with Subhash, Sajjan Singh and Sahi Ram.

6. We do not find any perversity or illegality in the judgment of the learned Single Judge dated 4.5.2016 vide which the respondent-workman was held entitled to be treated at par with his co-workmen Subhash, Sajjan Singh and Sahi Ram. They were also retrenched. They were ordered to be reinstated with continuity in service with 50% back wages. It was a case of discrimination. The fact of the matter is that the respondent-workman was engaged before Subhash, Sajjan Singh and Sahi Ram. Since the retrenchment of the respondent-workman was in violation of Section 25-F of the Act, he was entitled to reinstatement with back wages, though restricted to 50% by the learned Single Judge. Consequently there is no merit in the appeal, the same is dismissed with cost, which is quantified at ₹ 5,000/- to be deposited with the Punjab and Haryana High Court Bar Association.

7. The appeal stands dismissed.

(Rajiv Sharma)
Judge

8.7.2019
vs

(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No