

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

**L.P.A. No.1384 of 2017 (O&M) in
Civil Writ Petition No.7609 of 2012
Date of decision: September 23, 2019**

Divisional Forest Officer (Territorial), Hisar ...Appellant

Versus

Ram Niwas and another ...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr.Sharad Aggarwal, Addl. AG, Haryana
for the appellant.

HARINDER SINGH SIDHU, J.

For the reasons stated in CM No.2981-LPA-2017 and CM No.2980-LPA-2017, the delay in filing and re-filing of the appeal is condoned.

This Letters Patent Appeal has been filed against the judgment dated 30.10.2015 in CWP No.7609 of 2012 titled 'Ram Niwas vs. Divisional Forest Officer (Territorial) Forest Department, Hisar and another' whereby the writ petition filed by respondent No.1 was allowed. He was ordered to be reinstated in service with all consequential benefits.

Respondent No.1 was engaged as Beldar-cum-Mali in 1991 by the appellant Department. He worked on the said post till 31.03.2003, whereafter, he was verbally informed that his services were no longer

required. He raised industrial dispute. The matter was referred to the Labour Court. The Labour Court returned a finding that the respondent had worked as Beldar-cum-Mali with the appellant on daily-paid basis from 1991 to 31.03.2003 and that he had completed 240 days in 12 months preceding his termination on 01.04.2003. The Labour Court also concluded that his services were terminated without giving him any notice or notice pay and retrenchment compensation. It was also found that his juniors Krishna, Chinko and Jaibir were retained in service. The Labour Court held that the termination of his services was in violation of provisions of Section 25F and 25G of the Industrial Disputes Act. However, instead of directing reinstatement he was awarded compensation of Rs.50,000/-.

Aggrieved, he filed the writ petition, which has been allowed.

The Ld. Single Judge extensively traced the evolution of law in regard to the relief to be granted in cases of termination in violation of the provisions of the Industrial Disputes Act. From the earlier view that except in certain cases the breach would result in reinstatement with full back wages to the later change where compensation was thought more appropriate than reinstatement and the shift yet again towards reinstatement the Ld. Single Judge has noticed all.

Considering the aforesaid and the factual position that the respondent had remained in service for 12 long years from 1991 to 31.03.2003 it was thought that the relief of reinstatement with back wages and continuity would be appropriate. While granting that relief it was also taken into consideration that the respondent was earning Rs.2200/- per

month in 2003. The full back wages on a rough calculation would be a little more than Rs.3,00,000/-. Accordingly, the award to the extent of denying reinstatement was set aside. The writ petition was allowed. The respondent was directed to be reinstated in service with all consequential benefits flowing therefrom. The arrears of the wages were directed to be paid within three months.

There is no illegality or infirmity in the aforesaid order.

The appeal is accordingly dismissed.

(RAJIV SHARMA)
ACTING CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

September 23, 2019

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No