

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 13.03.2019****CWP No.2343 of 2016**

Gurmail Singh

...Petitioners

Vs.

Presiding Officer, Industrial Tribunal, Patiala, District Patiala & others.

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Pawan Kumar Goklaney, Advocate, for the petitioner.

Mr. Sandeep Vermani, Addl. AG, Punjab.

RAJIV NARAIN RAINA, J. (ORAL)

1. The State has not challenged the award granting ₹25,000/- in lieu of reinstatement. The relief granted by the learned Presiding Officer, Industrial Tribunal, Patiala is accompanied with the finding of violation of Section 25-F of the Industrial Disputes, Act, 1947 by the management. The termination has been held to be illegal. The period of service as Beldar was almost for two years i.e. from 01.06.1996 to 09.06.1998.

2. The petitioner has passed away pending litigation. Thus, reinstatement is out of the question. However, the compensation of ₹25,000/- awarded on 04.03.2013 by the Tribunal is wholly inadequate and unreasonable compensation for two years of service and loss of livelihood caused by the abrupt termination. The same in my view cannot be sustained.

3. The State has relied on my judgment and order dated 10.11.2014 delivered in CWP No.5080 of 2012 titled 'Sukhvir Singh Vs. Presiding Officer Vs. Industrial Tribunal -cum- Labour Court, Patiala & others'. In that case, the demand notice was served after eight years from the date of termination. When that case was decided the Court kept in view a decision of the Supreme Court in Assistant Engineer, Rajasthan Development Corporation & another Vs. Gitam Singh, (2013) 5 SCC 136, where ₹50,000/- was awarded by the Supreme Court as compensation in lieu of reinstatement for about 240 days of service holding that reinstatement for illegal termination is not to be awarded automatically. Other factors are to be considered in moulding the relief equitably.

4. However, in the evolving years compensation models have been changing to suitably adjusted with a rising price index and the price of violation of the law at the hands of managements leaving workers in search of alternate jobs without money in hand. Today is available a model of compensation package devised by the Division Bench of this Court in Municipal Council, Dina Nagar Vs. Presiding Officer, Labour Court, Gurdaspur, (2015) 1 RSJ 765, wherein this Court has suggested as guidance rough and ready principle of compensation of ₹1 lakh for every year of completed service as adequate and reasonable compensation when reinstatement is to be declined.

5. In the present case, the dispute was raised by serving demand notice on the management after six years of retrenchment and this factor has to be considered for assessment of damages in the award of compensation in lieu of reinstatement while applying the model in *Municipal Council, Dina*

Nagar case and the dispensations in the decisions of the Supreme Court in BSNL Vs. Man Singh, (2012) 1 SCC 558 and BSNL Vs. Bhurumal, (2014) 7 SCC 177, as appropriate ready reckoners on quantum of compensation relief considered just and reasonable. Thus, having regard to the delay of six years in raising the dispute, some cut may be justified from package in *Man Singh* and *Bhurumal* cases (supra) involving 2 to 3 years service prior to termination, and, of course; *Municipal Council, Dina Nagar* case, which cases when applied would bring something like ₹2 to 3 lakhs compensation to aggrieved workman.

6. Accordingly, in my considered view, an amount of ₹1.5 lakhs would be the adequate and reasonable compensation for two years of service instead of ₹25,000/- granted by the Labour Court which is terribly on the low side. This amount is directed to be paid to the legal heirs and representatives of the workman within eight weeks from the date of receipt of a certified copy of this order, so that they are not compelled to resort to protracted execution proceedings before the civil court. In case, the amount is not paid within the time allowed, the amount in default shall carry interest at the rate of 8% p.a. till realization.

7. With these observations and directions, this petition succeeds partly and the award is modified to the extent indicated above.

13.03.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes
Yes/No