IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

L.P.A. No.124 of 2020 (O&M) in
Civil Writ Petition No.5398 of 2014
Date of decision: January 24, 2020

The Patiala Central Cooperative Bank Ltd. ...Appellant

Versus

The Presiding Officer, Industrial Tribunal,
Patiala and others ...Respondents

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

Present: Mr.Naginder Singh Vashist, Advocate for the appellant.

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HARINDER SINGH SIDHU, J.

1. The Patiala Central Cooperative Bank Ltd., Patiala has filed this Letters Patent Appeal against the judgment dated 04.12.2019 in CWP No.5398 of 2014 titled 'Jaswinder Singh vs. The Presiding Officer, Industrial Tribunal, Patiala and others' whereby, the writ petition filed by respondent No.2 – Jaswinder Singh was allowed.

2. For the reasons stated in CM-343-LPA of 2020, the delay of 12 days in filing the appeal is condoned.

3. In the writ petition, respondent No.2 had challenged the Award dated 02.09.2013 of the Industrial Tribunal, Patiala, whereby, while answering the reference in his favour by holding that the termination of his services were in violation of Section 25F of the Industrial Disputes Act, 1947 (herein for short 'the Act'), he had been denied reinstatement in service. Instead a lump-sum compensation of Rs.20,000/- with interest @

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6% per annum from the date of the award till realisation, was awarded.

4. Respondent No.2 joined service with the appellant as a Peon on daily wages on 12.01.1999. He continued working as such till 28.05.2005 when his services were terminated. He raised an industrial dispute. Reference was made to the Industrial Tribunal. The Ld. Tribunal on appreciation of evidence held that the retrenchment of respondent No.2 was in violation of Section 25F of the Act as the compensation amounting to Rs.9,118/- had been paid to him on 18.03.2006, whereas, his services had been terminated prior thereto on 28.05.2005. However, instead of directing reinstatement, compensation as noticed above, was directed to be paid to him. The Ld. Tribunal also came to the conclusion that respondent No.2 was not a regular employee and proper procedure was not followed while employing him.

5. The Ld. Single Judge held that there was nothing on record to indicate that the work and conduct of respondent No.2 had ever been faulted. Regarding the finding of the Ld. Tribunal that proper procedure as per Service Rules was not followed at the time of the initial appointment of respondent No.2, the Ld. Single Judge noticed that such a finding could not have been returned on a bald plea of the appellant, especially even when the relevant Statutory Rules relating to the appointment were not produced which would indicate the qualifications for the post on which he had been appointed. No evidence had been led by the appellants to substantiate their assertion that the initial appointment of respondent No.2 was not in accordance with the Rules. In the absence of such evidence the

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presumption would be that he fulfilled the qualifications of the post against which he was appointed.

6. Relying on a decision of the Hon'ble Supreme Court in **Ajaypal Singh vs. Haryana State Warehousing Corporation**, **2015(6) SCC 321**, the Ld. Single Judge held that respondent No.2 was entitled to be reinstated in service with 50% back-wages from the date of his termination till date of his reinstatement.

7. In this appeal Ld. Counsel for the appellants has asserted that the direction regarding reinstatement of respondent No.2 in service with continuity with 50% back-wages is not justified as the initial appointment of respondent No.2 was not regular.

8. The Ld. Single Judge has already rejected this contention by noticing that no material had been placed on record before the Ld. Industrial Tribunal to indicate that appointment of Respondent No.2 was not regular. So much so, even the relevant Service Rules were not placed on record.

9. In view of above, there is no illegality or infirmity in the judgment of Ld. Single Judge warranting interference.

10. The appeal is accordingly dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

January 24, 2020
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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No

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