

LPA No. 160 of 2020 (O&M)
Date of decision: 03.02.2020

... Appellant

**Presiding Officer, Industrial Tribunal-cum-Labour Court, Hissar and
another ... Respondents**

Present: Mr. Rajender Singh Malik, Advocate,
for the appellant.

ARUN PALLI, J. (ORAL)

This is an intra-court appeal, under Clause X of the Letters Patent, against a judgment and order dated 28.11.2017, rendered by the learned Single Judge, vide which award dated 16.4.2012 passed by the Labour Court, was modified and a compensation of Rs.3,00,000/- was awarded to the appellant.

The facts that are required to be noticed are limited.

The case set out by the appellant before the Labour Court was that he was appointed as Beldar-cum-Mali w.e.f. 1.3.1991, to carry out the work in Social Forestry Project of the department, where he worked up to 25.8.1999. Whereafter, from 01.09.1999 to 30.9.2004, he worked in Community Forestry Project. However, on 1.10.2004, his services were abruptly brought to an end. Upon an industrial dispute being raised by him, the Labour Court, upon consideration of the matter, reached a conclusion for the appellant failed to prove if he was even in the employment of the

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department, vide order dated 16.4.2012, his claim was dismissed. Being aggrieved, the appellant assailed the said award vide a writ petition, referred to above, which was disposed of vide impugned judgment.

The learned Single Judge, on an analysis of the matter and the material on record, concluded that as the respondent authorities failed to produce the complete summoned records to ascertain the period for which the appellant had actually served, the conclusion arrived at by the Labour Court that appellant had not worked from 2001 to 2004 was erroneous. However, for the appellant had raised a dispute after more than three years of his termination, he was not entitled for reinstatement, but compensation, in terms of the decision of the Supreme Court in **Bharat Sanchar Nigam Limited Vs. Bhurumal (2014) 7 SCC 177**. Accordingly, considering his length of service, he was awarded Rs. 3,00,000/.

Learned counsel for the appellant submits that once the learned Single Judge had found that appellant had, indeed, served the respondent-department and provisions of the Industrial Disputes Act, 1947, having not been complied with, while terminating his services, he ought to have been reinstated with full benefits than merely awarding compensation.

We have heard learned counsel for the appellant and perused the records.

Ex facie, services of the appellant were alleged to have been terminated on 30.9.2004. It is not disputed either that he raised an industrial dispute after more than three years of his alleged termination, for he served the department with a demand notice on 14.1.2008. Today, over 15 years have gone by post his alleged termination, and therefore, consideration of his claim for reinstatement would not be conducive for industrial peace and

harmony. Not just that, in fact, in the writ petition filed by the appellant, he rather relied upon another award of an even date, i.e. 16.4.2012, vide which another workman was awarded Rs.1,60,000/- as compensation. Whereas, his claim was simply dismissed by the Labour Court. Further, in reference to the said award and the length of service of the appellant, the learned Single Judge awarded him Rs.3,00,000/-, as compensation. Thus, the claim of the appellant that he ought to have been reinstated is outrightly erroneous. It does not end here. On being pointedly asked, learned counsel for the appellant concedes that in terms of the impugned judgment, the appellant had already received Rs.3,00,000/-, as compensation. Nothing is disclosed in the grounds of appeal as to when did he receive the said amount. Rather, it appears that having accepted the impugned judgment, that was rendered nearly 2½ years ago and received the compensation, still he filed the present appeal, which is nothing but an abuse of process.

In the wake of the above, we are dissuaded to interfere with the impugned judgment and order rendered by the learned Single Judge.

The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

February 03, 2020
AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: NO