

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12240 of 2012 (O&M)

Date of Decision: 16.03.2020

Punjab State Electricity Board now PSTCL

... Petitioner

VS.

Presiding Officer, Industrial Tribunal, Gurdaspur & Ors. ... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. GS Ghuman, Advocate with
Mr. Janak Raj, Addl. SE for the petitioner

Respondent No.2 in person

GIRISH AGNIHOTRI, J. (Oral)

(1) The petitioner – PSTCL *inter alia*, seeks quashing of the award dated 02.04.2012. Vide the said award, the Industrial Tribunal has held the workman entitled to be re-employed from the date when award comes into operation, however, seniority be given from the date of the demand notice i.e. 16.05.2008 or from the date when juniors to the workman were re-employed by the petitioner-management, whichever is later.

(2) On 06.11.2012, notice of motion, in the present case was issued and operation of the award was stayed. On 03.04.2013, this Court had issued notice in an application moved by the workman under Section 17-B of the Industrial Disputes Act, 1947. On 05.02.2020, the following order was passed:-

“Present petition has been filed by the petitioner-Punjab State Electricity Board, now Punjab State Transmission Corporation Limited, Jalandhar, inter alia, praying for quashing the award dated 02.04.2012 whereby the direction was given to re-employ the workman from the date when award comes into operation. The operation of the award dated 02.04.2012 was stayed vide order dated 06.11.2012 passed by this Court.

Learned counsel for respondent No.2 submits that the workman had moved an application under Section 17-B of the Industrial Disputes Act, 1947, the compliance of which has also not been done till date.

On the other hand, learned counsel for the petitioner submits that the petitioner had a good case on merits. The petitioner had only worked for 439 days. He submits that he was a daily wager and had not worked against the sanctioned post, therefore, a lump sum compensation can be awarded.

This Court deems it appropriate to issue following direction:-

The petitioner as well as the respondents counsel may seek instructions if Rs.4 lacs can be offered to the workman as full and final settlement and also compensation in lieu of reemployment. This figure of Rs.4 lacs is being considered appropriate in view of the judgment of the Hon'ble Supreme Court titled as 'Vice Chancellor, Lucknow University Lucknow, U.P. Vs. Akhilesh Kumar Khare and Anr.' as relied upon by the Counsel for the petitioner.

Even otherwise, this Court finds that if the award would have been implemented since 2012 till date or under Section 17-B of the Act, wages would have to be paid by the petitioner and the amount would be either Rs.4 lacs or even more.

Let both the counsel may make final offer as to their claim for disposal of the writ petition.

List on 16.03.2020."

- (3) Today on the resumed hearing, Mr. Janak Raj, Addl. SE from the Corporation has come present (photocopy of his ID is taken on record as Mark 'A'). He states that in pursuance of the order dated 05.02.2020, reproduced above, a decision has been taken in-principal to pay Rs.4 lakhs as full and final settlement, to the workman. In support of his averments, he has placed on record certified copy of the noting portion which is taken on

record as Mark 'A1'. The relevant extract of the noting is reproduced as under:-

“The proposal at CP-7 was gone through. In view of the counsel’s opinion at ‘A’, comments of legal cell of PSTCL at ‘B’ and recommendation of Director/Technical, PSTCL should settle the issue out of court by paying the amount of Rs.4.00 lacs as full and final settlement.

Submitted please.

*Sd/- Director/F&C
13/3/2020*

CMD/PSTCL,

*Sd/- CMD/PSTCL
13/3/2020”*

(4) Respondent No.2-workman is present in Court (photocopy of his identity card is taken on record as Mark 'B'). Respondent No.2 states that he is ready and willing to accept the offer made by the petitioner towards full and final settlement.

(5) In view of the above, the writ petition is disposed of with the following directions:-

(i) the petitioner-management shall disburse to the workman the aforementioned amount of Rs.4 lakhs within one month from the date of receipt of certified copy of this order.

(ii) the workman having accepted the amount of Rs.4 lakhs, no other claim for reinstatement/backwages or wages under Section 17-B of the Act would be left out.

(iii) both the parties shall abide by their undertakings.

(6) The writ petition stands accordingly disposed of in above terms.

16.03.2020
Vvishal

(Girish Agnihotri)
Judge

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |