

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7624 of 2011 (O&M)

Date of Decision: 30.01.2020

Babu Lal

... Petitioner

VS.

PO, Industrial Tribunal, Gurgaon & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. Rakesh Nagpal, Advocate for the petitioner

Ms. Safia Gupta, AAG Haryana

GIRISH AGNIHOTRI, J. (Oral)

(1) The present writ petition has been filed by the petitioner Babu Lal *inter alia* praying for quashing of the award dated 11.12.2009 whereby the reference has been decided against the petitioner-workman.

(2) With the able assistance of counsel for the parties, this Court has gone through the award. The case put up by the petitioner-workman as noticed in the award is that he had joined the respondent in February, 1992. He worked in this capacity upto 29.11.2000.

(3) The stand of the respondent before the Labour Court was that the workman had joined in the year 1994 as a daily wager. It was pleaded case before the Labour Court that the management had denied that the services of the workman were dispensed with wrongly and illegally in 2000. However, learned counsel for the petitioner has drawn reference to the statement of MW1 Sh. Ravinder Singh Range Forest Officer. The relevant extract has been reproduced in para 3(i) at page 11 of the paperbook which is also reproduced hereinunder:-

“It is right that the detail of service given by the workman through master rolls and bills from Mark A to Mark D are

correct We had employed more workmen in accordance with the work in place of the workman.”

(4) The said Mark A to Mark D have been appended in the writ petition as Annexures P2 to P4. A perusal of the same clearly shows that the workman had actually worked for 240 days immediately proceeding the alleged date of termination. Therefore, this Court finds that the award passed by the Labour Court has clearly fallen into error.

(5) From the evidence led before the Labour Court, it was evident that the workman had actually completed 240 days yet there is no compliance of mandatory provisions of Section 25F of the Industrial Disputes Act, 1947 shown to have been complied with by the respondent-management.

(6) The Hon'ble Apex Court in **BSNL vs. Bhurumal, (2014) 7 SCC 177** held that in a case where the workman is not working on a sanctioned post, the awarding of reinstatement with backwages would be not justified. In this view of the matter, this Court deems it appropriate to award compensation as full and final settlement. In this regard, learned counsel for the petitioner has relied upon the judgment/order dated 18.01.2019 passed in **CWP No.25070 of 2012 (Paramjit Singh vs. Presiding Officer, Industrial Tribunal, Patiala & Ors.)**. In this case while relying upon various parameters laid down by the Hon'ble Supreme Court, this Court deemed it appropriate to apply the criteria fixing compensation by awarding ₹ 40000/- for each year of service rendered. The relevant extracts of the judgment of this Court in **Paramjit Singh's** case is reproduced as under:-

“5. In order to put an end to the dispute, the petitioner has given up his right to reinstatement as it would serve no useful end in the facts and circumstances and instead he presses for

enhancement of compensation in the light of developments of law after Mamni's case. In this regard Mr. Gupta relies on the decisions of the Supreme Court in BSNL Vs. Man Singh, (2012) 1 SCC 558; BSNL Vs. Bhuremal, (2014) 7 SCC 177 and Assistant Engineer, Rajasthan Development Corporation & another Vs. Gitam Singh, (2013) 5 SCC 136 as well as of Division Bench of this Court in Municipal Council, Dina Nagar Vs. Presiding Officer, Labour Court, Gurdaspur, (2015) 1 RSJ 765 for enhancement of compensation.

6. It is not disputed that petitioner had served for about 7 years and 3 months at the time of termination. In case, we follow the broad rule in the Division Bench judgment in Municipal Council, Dina Nagar, that would bring about ₹7 lakhs as compensation, i.e. ₹1 lakh per year of service for illegal termination. Even if we apply the quantum of compensation in Man Singh, Bhuremal and Gitam Singh cases, the compensation would be somewhere in the region of ₹3 to ₹5 lakhs by the multiplier method having regard to the number of years of service. The Industrial Tribunal has given no reason to arrive at the figure of ₹40,000/- and that is clear ipse dixit. There is no strait-jacket formula devised by Courts for relief of compensation and verily none can be fixed, as each case has to be decided on its own facts and from case to case.

7. Keeping in view the totality of facts and circumstances of this case, I am inclined to think it appropriate to multiply ₹40,000/- by 7 years of service ($40,000 \times 7 = 2,80,000/-$) and by adding ₹20,000/- to rounded off the figure at ₹3,00,000/- as compensation. This figure would include 6% interest awarded by the Tribunal on ₹40,000/-. All of these merged together represent total compensation of ₹3,00,000/- to be paid by respondents No.2 & 3 to the petitioner/workman within two months from the date of receipt of a certified copy of this order to bring an end to the dispute.

8. Accordingly, this petition succeeds partly. Reinstatement is denied and compensation to the tune of ₹3,00,000/- in lieu of reinstatement is awarded by modifying the impugned award.”

(7) In the present case, the pleaded case of the petitioner was that he had worked from 1992 to 2000. However, exhibit Marks A, B, C & D shows that the workman had worked from 1993 for a considerable period and then he had worked for some period in 1994 but did not work for half of 1994 and the entire year of 1995. He then worked in the year 1996, 1997, 1998, 1999 and 2000. Therefore applying the broad rule as laid down in the **Paramjit Singh's** case, this Court deems it appropriate to award ₹ 2,40,000/- as compensation to be paid by the respondent-management towards full and final settlement of the case. The said compensation would be in lieu of reinstatement.

(8) In the above circumstances award dated 11.12.2009 is quashed and the writ petition is allowed in above terms.

30.01.2020

Vvishal

(Girish Agnihotri)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No