

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.2587 of 2016 (O&M)

Date of Decision: 29.01.2020

District Food & Supply Controller, Panipat ... Petitioner

VS.

PO, Industrial Tribunal, Panipat & Anr. ... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Ms. Palika Monga, DAG Haryana

Mr. Sandeep Singhal, Advocate for respondent No.2

GIRISH AGNIHOTRI, J. (Oral)

(1) This writ petition has been filed by the petitioner District Food and Supply Controller, Panipat, *inter alia* with a prayer to quash the award dated 15.09.2015 (P6) whereby respondent No.1 has been ordered to be reinstated with continuity of service along with 50% backwages.

(2) The pleaded case of the respondent-workman before the Labour Court as noticed in the award dated 15.09.2015 was that the workman had alleged that he was appointed as Chowkidar and worked during the period from 01.08.2000 to 31.08.2008. It is then pleaded that petitioner terminated his service on 01.06.2008 without giving him notice or pay in lieu thereof and there is violation of Sections 25F & 25G of the Industrial Disputes Act, 1947.

(3) Learned counsel for the petitioner submits that the pleaded case of the management as noticed in the Labour Court award was that the workman was *inter alia* engaged on contract basis for a specific work but for maximum 89 days at one instance. It is the specific case of the management that he never worked for 240 days in a calendar year. It was also pleaded that the workman had never made any agreement of contractual appointment

after 27.09.2007 and that such appointments were made by the department only for 89 days on DC rate subject to the requirement for various intervals and not against regular posts.

(4) Both the learned counsels for the parties made their respective submission on merits of the case.

(5) The argument of learned counsel for the petitioner in brief to be noticed is that in fact the petitioner had never worked for 240 days much less immediately preceding the alleged date of termination.

(6) Learned counsel for the respondent-workmen, however, has made reference to the statements made by the witnesses before the Labour Court to submit that in fact the workman had completed 240 days.

(7) This Court however, is not required to go into the finding of fact in view of the fact that learned counsel for the petitioner relies upon another legal submission. In view of the various judgments of the Hon'ble Supreme Court in **BSNL vs. Bhurumal, (2014) 7 SCC 177** relied upon by counsel for the petitioner, it is contended that the Labour Court has erred in awarding reinstatement with continuity of service and 50% backwages from the date of demand notice because there is no finding of fact that the workman was engaged on regular basis or against the regular sanctioned post. Therefore in any case, the relief so granted by the Labour Court vide award dated 15.09.2015 for reinstatement and consequential benefits deserves to be quashed and at best the workman is held entitled to a fixed compensation. This offer was made to counsel for the respondent.

(8) During the afternoon session, learned counsel for respondent, after seeking instructions from the workman, makes a statement that in case the fixed amount of compensation is granted, he has instructions not to insist

upon the claim of reinstatement and other consequential benefits as granted by the Labour Court. He has made a request that considering that the case of the workman was that he worked from 01.08.2000 to 31.05.2008, the compensation of ₹ 1,50,000/- be awarded as full and final settlement. This Court deems it appropriate that the offer is fair.

(9) Accordingly, the present writ petition is disposed of and the award dated 15.09.2015 is modified and compensation of ₹ 1,50,000/- is ordered to be granted to the workman as full and final settlement. Let the said amount be released in favour of the workman on the address given by learned counsel for the workman within two months from the date of receipt of certified copy of this order.

(10) Ordered accordingly.

29.01.2020

Vvishal

(Girish Agnihotri)
Judge

1. *Whether speaking/reasoned?*

Yes/No

2. *Whether reportable?*

Yes/No