

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CWP No.7965 of 2017(O&M)  
DECIDED ON : 05.03.2020**

**Bir Chand**

**...Petitioner**

**versus**

**Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat and  
anr.**

**...Respondents**

**CORAM : HON'BLE MR. JUSTICE GIRISH AGNIHOTRI**

Present : Mr. Karan Bhardwaj, Advocate  
for the petitioner (in CWP-7965, 7974, 7995, 8510,  
8719, 8807, 8936-2017) and  
for respondent No.1 (in CWP-1690, 1702, 1718, 2178-2018).

Mr. Dharamveer Phour, Advocate, for the petitioner  
(in CWP-9323, 9343, 9361, 9364-2017) and for  
respondent No.1 (in CWP-1669, 1688, 1693, 1694-2018).

Mr. Sumit S. Bairagi, Advocate for the petitioner  
(in CWP-9418, 9425-2017) and for respondent No.1  
(in CWP-1671-2018).

Ms. Safia Gupta, Asstt. A.G, Haryana.

**GIRISH AGNIHOTRI, J. (ORAL)**

**CM No. 3668 of 2020 in  
CWP No.9418 of 2017**

This application has been filed by the petitioner for correction  
of name of the petitioner. With the consent of the parties, the CM is also  
taken on board today itself and the application is allowed.

**Main case**

This order shall dispose of CWP Nos.7965, 7974, 8510, 8936,  
9361, 9425, 7995, 8719, 9323, 8807, 9418, 9343, 9364 of 2017, 1669, 1671,  
1688, 1690, 1693, 1694, 1702, 1718, 1720, 2178, 1668 of 2018, COCP Nos.  
1600 to 1605 of 2017, 302, 274 to 276 of 2018 as common issues are

involved. The facts are being referred to and taken from CWP No.7965 of 2017.

Present petition has been filed by the petitioner-Bir Chand, *inter alia*, with the prayer to quash the award dated 27.12.2016 (Annexure P-4). Vide award dated 27.12.2016 (Annexure P-4), the Labour Court had decided the Reference under Section 10(1)(c) of the Industrial Disputes Act, 1947. In the award, the Labour Court has held that workman is entitled to compensation of Rs.50,000/- to be paid to the workman by the management within three months from the date of publication of the Award, failing which, the management will be liable to pay interest @ 6% per annum.

The records of the case show that notice of motion in this case was issued by passing a detailed order on 20.04.2017, which reads as under:-

*“These three cases coming up in katcha pesi today belong to the Forest Department. In all the three cases the Labour Court, Panipat has returned findings of violation of Section 25-F of the Act. The three petitioners who are no more than daily wage workers do not hold posts under the State. They fall in the category of labour, an employment which has been excluded in the 2nd para of Uma Devi (3) case that State is empowered to labour to execute its responsibilities over schemes of development.*

*Learned counsel cites judgments of this Court rendered in cases involving the Haryana Forest Department and disputes with marginalized labour in Smt. Chinti Devi vs. Presiding Officer, Industrial Tribunal-cum-Labour Court, Distt. Panipat and another, 2013 (3) S.C.T. 597; 2014 (2) RSJ 3 & Maya Devi v. Presiding Officer, Industrial Tribunal cum Labour Court, Rohtak and others, (2012) 3 SCT 399 and judgments of the Supreme Court in Harjinder Singh vs. Punjab State Warehousing Corporation, (2010) 3 SCC 192, Anoop Sharma vs. Executive Engineer, Public Health*

*Division No.1, Panipat (Haryana), 2010 (3) SLR 663, Devinder Singh vs. Municipal Council, Sanaur, (2011) 6 SCC 584 and Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) and others, (2013) 10 SCC 324, Jasmer Singh v. State of Haryana, (2015) 4 SCC 458 and Tapash Kumar Paul vs. BSNL and another, 2014 (3) SCT 106.*

*In the face of this wall of judgments in favour of the workman the Labour Court had found all the jurisdictional facts in favour of the petitioners but has denied reinstatement and awarded a meager amount of ₹50,000/- as back wages which trifling amount I have had occasion to call “adding insult to injury”.*

*Learned counsel laments when he informs the Court that similarly situated persons who had approached the Civil Court were reinstated to service and their services were regularized and the petitioners deserve the same protection. One of the names is Budho Devi.*

*It would not serve justice to simply issue notice in this case to the State and let time slip by in adjournments. Therefore, as a constructive measure an interim mandamus is issued to the respondents that it will reinstate the petitioners to service forthwith and each of them will be paid ad hoc a sum of ₹1 lac as an interim measure subject to final result of the writ petition.*

*Notice of motion.*

*Service on R-1 is dispensed with.*

*On the asking of Court, Mr. R.T. Redhu, DAG, Haryana accepts notice on behalf of the respondent-State and waives service. Three copies of the petition have been supplied to him in Court in each of the three cases in each of the three cases.*

*Mr. Redhu will bring this order to the notice of the Principal Chief Conservator of Forest Haryana to implement the orders which will remain subject to outcome of the petitions.*

*List on 24.05.2017.*

*Photocopy of this order be placed on the files of*

*connected cases.”*

In the above said order, it has been noticed that the judgments are in favour of the workman. However, inspite of this, the Labour Court has, found all the jurisdictional facts in favour of the workman but has denied reinstatement and awarded a meagre amount of Rs.50,000/- as compensation.

One of the important facts which go to the root of the matter as noticed by this Court in order dated 20.04.2017, is that, in case of similarly situated persons, who had approached the Civil Court, they had been reinstated in service with regularization. The plea of the workmen therefore, was that they also deserve the same protection.

In these peculiar facts and circumstances of the case, this Court on 20.04.2017 had further observed that it would not serve the ends of justice to simply issue notice in this case to the State and the let time slip by in adjournments. Therefore, as a constructive measure, an interim mandamus was issued to the respondents to reinstate the petitioners to service forthwith and each of them will be paid ad hoc, a sum of Rs. 1 lakh as an interim measure subject to final result of the writ petition. To ensure that the directions of this Court dated 20.04.2017 are complied with, the then Deputy Advocate General, Haryana, appearing for the State was directed to bring the said order to notice of the Principal Chief Conservator of Forest to implement the orders which will remain subject to outcome of the petitions.

It was also brought to the notice of this Court by learned counsel for the petitioner that LPA No.290 of 2018 was filed by the State against the order of this Court dated 20.04.2017 but the LPA Bench did not

find justification to interfere in the order and resultantly the LPA was dismissed as withdrawn on 09.05.2018.

Thereafter, certain opportunities were taken by the State. This Court on 21.01.2020 then passed the following order:-

*“(1) These petitions have been filed by the workmen, inter alia, with a prayer to quash the award dated 27.12.2016 (P4) passed by the Labour Court to the extent that in spite the Labour Court having found that there is violation of Section 25F of the Industrial Disputes Act, 1947 (para 14 of the Award) instead of reinstatement in service, only compensation of ₹50,000/- has/have been awarded.*

*(2) When this case came up for hearing on 20.04.2017, following order was passed:-*

*“These three cases coming up in katcha peshi today belong to the Forest Department. In all the three cases the Labour Court, Panipat has returned findings of violation of Section 25-F of the Act. The three petitioners who are no more than daily wage workers do not hold posts under the State. They fall in the category of labour, an employment which has been excluded in the 2nd para of Uma Devi (3) case that State is empowered to labour to execute its responsibilities over schemes of development.*

*Learned counsel cites judgments of this Court rendered in cases involving the Haryana Forest Department and disputes with marginalized labour in **Smt. Chinti Devi vs. Presiding Officer, Industrial Tribunal-cum-Labour Court, Distt. Panipat and another, 2013 (3) S.C.T. 597; 2014 (2) RSJ 3 & Maya Devi v. Presiding Officer, Industrial Tribunal cum Labour Court, Rohtak and others, (2012) 3 SCT 399** and judgments of the Supreme Court in **Harjinder Singh vs. Punjab State Warehousing Corporation, (2010) 3 SCC 192, Anoop Sharma vs. Executive Engineer, Public Health Division No.1, Panipat (Haryana), 2010 (3) SLR 663, Devinder Singh vs.***

***Municipal Council, Sanaur, (2011) 6 SCC 584 and Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) and others, (2013) 10 SCC 324, Jasmer Singh v. State of Haryana, (2015) 4 SCC 458 and Tapash Kumar Paul vs. BSNL and another, 2014 (3) SCT 106.***

*In the face of this wall of judgments in favour of the workman the Labour Court had found all the jurisdictional facts in favour of the petitioners but has denied reinstatement and awarded a meager amount of ₹ 50,000/- as back wages which trifling amount I have had occasion to call “adding insult to injury”.*

*Learned counsel laments when he informs the Court that similarly situated persons who had approached the Civil Court were reinstated to service and their services were regularized and the petitioners deserve the same protection. One of the names is Budho Devi.*

*It would not serve justice to simply issue notice in this case to the State and let time slip by in adjournments. Therefore, as a constructive measure an interim mandamus is issued to the respondents that it will reinstate the petitioners to service forthwith and each of them will be paid ad hoc a sum of ₹ 1 lac as an interim measure subject to final result of the writ petition.*

*Notice of motion.*

*Service on R-1 is dispensed with.*

*On the asking of Court, Mr. R.T. Redhu, DAG, Haryana accepts notice on behalf of the respondent-State and waives service. Three copies of the petition have been supplied to him in Court in each of the three cases in each of the three cases.*

*Mr. Redhu will bring this order to the notice of the Principal Chief Conservator of Forest Haryana to implement the orders which will remain subject to outcome of the petitions.*

*List on 24.05.2017.*

*Photocopy of this order be placed on the files of connected cases.*

**20.04.2017**

**(RAJIV NARAIN RAINA)  
JUDGE”**

*(3) It is a matter of fact which has been brought to the notice of this Court that the above order dated 20.04.2017 passed by this Court was appealed against in an intra-court appeal by filing LPA No.290 of 2018 but the Bench did not find justification to interfere in the order and resultantly the LPA was dismissed as withdrawn on 09.05.2018.*

*(4) A perusal of the award dated 27.12.2016 (P4) (passed in the lead case) further shows that the case of the workman was that he had been working with the respondent during the period from January, 1982 under the supervision of Sh. Om Parkash, Guard. It is then the case of the workman that he continued working till 31.03.2011 when his services were illegal terminated. It has also been recorded in the award that the records were weeded out as per office order dated 10.09.2013*

*(5) After notice of motion, reply has been filed by the State. In para 4 of the reply, it has been mentioned that the office of Chief Conservator of Forests, Haryana vide order dated 27.04.2005 (R1) had directed to strictly implement the ‘Piece Rate Contract System’ in place of ‘Mustroll System’ as per the Government of Haryana memo dated 06.07.2000.*

*(6) Affidavit dated 20.01.2020 has been filed by the DFO(T), Karnal which is taken on record. Copy supplied. Registry to tag the said documents at an appropriate place and paginate the paper book accordingly.*

*(7) Before proceeding further on merits, this Court deems it appropriate to grant one last opportunity to the State to comply with the order dated 20.04.2017. It is made clear that though prima facie the action of the respondent amounts to contempt of court as the orders of this Court, till date, have not been complied with, however, in the interest of justice, one more but last opportunity is granted to the respondent to at*

*least allow the workmen to be taken back in job. The workmen, of course, as submitted by their counsels would be eager to get the job and in the event they are taken back in job, counsels would seek instructions from the workmen to forego the backwages.*

*(8) On merits, learned State counsel wishes to refer to certain paragraphs of the Award and the same are countered by counsel for the workmen by making reference to the subsequent paras of the award wherein, it has been noticed that the onus has been shifted on the management that the workmen had not worked for 240 days.*

*(9) At this stage, this Court is of the view that the respondent-State first needs to purge the contempt prima facie made out for non-compliance of the order dated 20.04.2017. The order dated 20.04.2017 itself records that the directions so implemented will remain subject to the outcome of the writ petitions.*

*(10) Learned counsel appearing for the State is, therefore, directed to apprise the competent authority, namely, the Principal Chief Conservator of Forests, Haryana and other concerned authorities that time granted by this Court is restricted to 4 weeks from the date certified copy of this order is received by counsel for respondent-State. It is further made clear that in case in spite this opportunity, the order is not complied with to the extent that the workmen are taken back in job within a time as granted above, the Principal Chief Conservator of Forests, Haryana shall file his personal affidavit assigning the reasons for the same as also as to why this Court should not proceed further under the Contempt of Courts Act for non-compliance of the order dated 20.04.2017 of this Court.*

*(11) Needless to say these directions are to be complied with in all the cases where the order dated 20.04.2017 was made applicable/interim directions in the same were ordered in each of the cases.*

*(12) Post for hearing on 05.03.2020.*

*(13) Let a **dasti** copy of this order be handed over to Ms. Safia Gupta, AAG Haryana for information and necessary*

*compliance.*

*(14) Photocopy of this order be placed on the record of other connected case(s)."*

Today on the resumed hearing of case, learned State counsel has informed that in compliance of order dated 20.04.2017 passed by this Court, the Principle Chief Conservator of Forest, Haryana, has taken a decision.

Accordingly, the writ petition is disposed of with the following directions:-

- i) The petitioners, who have been ordered to be reinstated in job, shall continue to be in job like other similarly situated employees unless any adverse work and conduct report is recorded against them.
- ii) In view of the fact that it has been noticed in the award dated 27.12.2016 that the workman had been working with the respondent during the period from January, 1982 and their services were dispensed with in the year 2011, it is deemed appropriate to direct that the Competent Authority shall consider the case of each individual workman based on record available and grant same/similar benefits viz. continuity of service and notional pay fixation as has been granted to similarly situated employees like the workmen who had been reinstated under the orders of the Civil Court.
- iii) At this stage, learned counsel for the petitioner submits that two officials, namely, Bhudo Devi and Gulab Singh were reinstated by the department themselves. Both these factors, namely the reinstatement on account of orders of the Civil Court as well as reinstatement on account of orders by the department, shall be taken into consideration while taking decision by the Competent Authority, who shall consider and pass orders regarding continuity of service and notional pay

fixation.

- iv) Let this exercise be completed within a period four months from the date of receipt of certified copy of this order.
- v) Learned counsel for the petitioner, on instructions from the workmen, who are present in Court makes a statement that in the event the benefits of reinstatement in job, continuity and notional fixation from the due dates is granted by the respondents, the workmen shall abide by their offer i.e. not to claim any other financial benefits.
- vi) In view of the above, this Court deems it appropriate to drop the contempt proceedings especially in view of the fact that department has now taken fair stand and has ensured the Court that the decision taken to reinstate the workmen and to consider their cases for continuity and notional pay fixation shall be meticulously followed.
- vii) With the above directions, the award dated 27.12.2017 (Annexure P-4) is modified to that extent above.

The writ petitions as well as the Contempt petitioners stand stands disposed of in above terms.

**March 05, 2020**  
 *jyoti3*

**(GIRISH AGNIHOTRI)**  
**JUDGE**

Whether speaking/reasoned : YES/NO  
Whether reportable : YES/No