

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

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**CR-5057-2017 (O&M)
Date of decision: 12.12.2022**

M/S BABA KHARAG SINGH- BABA DARSHAN SINGH

..Petitioner

Versus

SH. HAPPY GUPTA C/O THE AMRITSAR GENERAL LABOUR UNION

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sudeep Mahajan, Advocate
Ms. Sachi Mahajan,
for the petitioner.

Ms. Sumanjit Kaur, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

In the execution petition, Civil Judge (Senior Division) has directed the petitioner to pay the arrears of salary along with the interest with effect from 05.09.2007. The judgment debtor (Management) assails the correctness of the aforesaid order passed by the Executing Court.

The relevant facts, in brief, are required to be noticed.

In the industrial dispute, the Presiding Officer, Labour Court, Amritsar, ordered reinstatement of the workman with continuity in service with 30% of the back wages from the date of demand notice with effect from 30.04.2002.

The operative part of the order dated 30.07.2007, is extracted as under:-

“In view of my finding in respect of issues no.1 to 4, the reference made by the government to this Court for adjudication is answered in favour of the workman and against the management. Management is enjoined upon to reinstate the workman with continuity in service with 30% back wages from the date of demand notice i.e. 30.04.02 as also indicated in the reference itself. Workman is also directed to report for duty with the

management within 30 days of the publication of this award. No order as to costs.”

Writ petition as well as the Letter Patent Appeal filed by the Management were dismissed. In the year 2011, the respondent filed COCP-3127-2011, for initiating the contempt proceedings against the management. The amount of the back wages as ordered by the Labour Court was duly paid.

On the one hand, the Management claims that the respondent reported on duty on 09.01.2011, but thereafter, he again went on leave from 21.03.2011, whereas, respondent claims that he sent a joining letter through the registered post which was not accepted.

It is evident from the reading of the award that the Court had ordered reinstatement of the respondent with the continuity of service and 30% back wages. Admittedly, 30% back wages from the date of demand notice has been paid. There is no decree for payment of the salary from 05.09.2007. The Executing Court is required to implement the decree as it exists. It is also evident that the Executing Court despite noticing the aforesaid objections, did not analyse its affect.

Keeping in view the aforesaid facts, this Court is left with no other choice but to set aside the order dated 17.01.2017. The respondent may avail any remedy available in the law.

With these observations, the present petition is disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

December 12th, 2022

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned

: *Yes/No*

Whether reportable

: *Yes/No*