

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

**1. CR 1189 of 2019 (O&M)
Date of Decision: April 26, 2022**

State of Haryana and others ...Petitioners
Versus
Samay Pal ... Respondent

2. CR 1895 of 2019 (O&M)

State of Haryana and others ...Petitioners
Versus
Likhi Ram ... Respondent

3. CR 2226 of 2019 (O&M)

State of Haryana and others ...Petitioners
Versus
Prem Pal ... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Ms. Sazia Gupta, AAG, Haryana.

Mr. Deepak Sonak, Advocate
for the respondent.

FATEH DEEP SINGH, J. (Oral)

The above three detailed civil revisions all against an

order dated 08.10.2018 passed by the Court of learned Civil Judge (Junior Division) Palwal, involves common question of law and, therefore, for the sake of brevity are being taken up and decided together.

Heard Ms. Sazia Gupta, AAG, Haryana and Mr. Deepak Sonak, Advocate for the respondent and perused the records.

In a dispute between workman and the Forest Officers, present petitioners, the Court of learned Presiding Officer, Labour Court 3, Faridabad passed an award dated 29.09.2016 separately in three different references sent to it for adjudication. Though the orders are passed separately but the common crux of these awards it is held the workman to be entitled to reinstatement with continuity of service and 50% back wages to be calculated on the basis of last drawn wages from the date of termination till his reinstatement. With the amendment in the Industrial Disputes Act, 1947 (in short, '**the Act**') that came into operation w.e.f. 15.09.2010 in Chapter IV

Section 11 sub-Sections 9 and 10 were added to the Act. By virtue of this amendment, the execution of the award/orders provisions of Order 21 of the CPC were made applicable whereby the Labour Court/Tribunal/National Tribunal as the case may be could transmit an award, order or settlement to a civil Court having jurisdiction and such civil Court shall execute the award, order or settlement as it was a decree passed by it. This is precisely how the matter has come up before the Court of learned Civil Judge (Junior Division) Palwal.

The present petitioners then judgment debtors, the State had filed objections to the execution of the award and which stood dismissed and disposed off by order dated 08.10.2010, which is the subject matter of this challenge.

Upon appreciating the arguments, the presiding Officer, Labour Court 3, Faridabad had given the following relief:-

Relief:-

13. In view of my findings on the aforesaid issues,

the reference is answered in favour of the workman holding that the workman is entitled to be reinstated with continuity of service and 50% back wages to be calculated on the basis of the last drawn wages from the date of termination till his reinstatement. Copies of award be sent to the authorities concerned and file be consigned to the records after due compliance.”

Plain reading of this shows that workman was entitled to be reinstated with continuity of service and was to be paid 50% of the back wages which has to be calculated on the basis of last drawn wages as on the date of termination till his reinstatement and which was to be enforced and recovery effected by the Executing Court of learned Civil Judge (Junior Division) Palwal. What the impugned order reflects that in para 6 is reproduced as below to lay emphasis:-

“Above said findings of learned Presiding Officer labour Court-III Faridabad is clear to the point that

*50% wages to be calculated on the basis of last drawn wages from the date of termination till his reinstatement. As per the own admission of DH, he was terminated on 28.12.2011 and his monthly wages was at that time @ 4847.17 paise. Meaning thereby back wages shall be calculated for the period 28.12.2011 till 11.11.2016 @ 50% of Rs.4847.17 paise per month. From the perusal of calculation filed by the DH it transpires that he submit the same on the basis of increased wages in the year 2012 to 2016. Main dispute is now interpretation of words "Last wages". This interpretation has been done by Hon'ble Bombay High Court in **Carona Sahu Co. Ltd.** case (Supra) wherein it was held by Hon'ble Court that full wages last drawn includes the wages drawn on the date of termination of service plus yearly increments and dearness allowance. It is also held by the Hon'ble*

*Court that for calculating the wages last drawn by the workman the revision of pay, if any, will also have to be taken into account. Hon'ble Karnatka High Court is of also same view of the Bomay High Court in authority reported as **M/s Visveswaraya Iron and Steel case (supra)**".*

and from which it is reflected that the Executing Court while disposing off the objections has held as to the date of termination, the rate of the wages and also determined the same while disposing of the objections which certainly is an irregularity which needs to be cured. The Executing Court is certainly supposed to only adjudicate the objections at that stage and thereafter pass an order as to the extent of execution of the award.

To the specific query of this Court, counsel for the two sides squarely accept that no separate order for implementation of the award dated 29.09.2016 or recovery of the wages and the interest thereon has been passed by the

Court other than the order dated 08.10.2018 disposing off the objections.

Order 21 Rule 10 CPC provides for provisions of application for execution which can be oral as well as written in terms of Rule 11(i) and 11(ii) and on non-compliance of the orders, order for attachment for movable/immovable properties can be resorted to by the Executing Court.

Order 21 Rule 17 CPC provides for the procedure on receipt of application for execution of decree and ensures that where such a decree is complied with then no further action is necessitated and if it is not remedied by making payment, the Court may order issuance of notice to the judgment debtors in terms of Order 21 Rule 23 CPC and, thereafter, may carry on the process of execution in terms of Order 21 Rule 24 CPC which ensures that the Officer entrusted with the execution process would ensure its due implementation and execution and which processes have not been followed in the present case and straightaway the Court has on its own assessed the

amounts without there being any irrefutable evidence to that effect before it as to the rate of wages then prevalent and how by what means rate of interest stands calculated under various heads and for which periods. Though such an order does not render and orders thereon execution illegal, however, being an order which can be remedied being a curable irregularity, the present revision stands disposed off with the directions to the Court below to get the award executed after passing speaking and specific order in this regard commensurate with the Award.

Disposed off.

April 26, 2022
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No