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

**LPA-783-2022 (O&M)
Date of decision : 19.09.2022**

**THE PUNJAB STATE COOPERATIVE SUPPLY AND MARKETING
FEDERATION LTD.**

..... APPELLANT

VS

SATINDER SINGH AND ORS.

..... RESPONDENTS

**CORAM : HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR.JUSTICE ALOK JAIN**

Present :- Mr. Vikas Singh, Advocate for the appellant.
Mr. Vishnav Gandhi, DAG, Punjab.
Mr. Amarjit Singh, Advocate for the respondents-caveator.

AUGUSTINE GEORGE MASIH, J. (Oral)

CM-1862-LPA-2022

Prayer in this application is for condonation of delay of 24 days in re-filing the appeal.

Notice of the application.

Mr. Amarjit Singh, Advocate, accepts notice on behalf of the respondent No.2-Caveator.

For the reasons mentioned in the application, which is duly supported by an affidavit of Law Officer, The Punjab State Cooperative Supply and Marketing Federation Ltd., the same is allowed.

Delay of 24 days in re-filing the appeal stands condoned.

LPA-783-2022

Challenge in this appeal is to the judgment passed by the learned Single

Judge dated 31.03.2022, whereby challenge to the award dated 08.09.2015

(Annexure P-2) passed by the Industrial Tribunal-cum-Labour Court, Amritsar, whereby the reference has been answered in favour of respondent No.2-workman, who has been held to have worked with the appellants and has been ordered to be reinstated in service with 20% back wages, stands upheld.

It is the contention of the learned counsel for the appellants that as per the statement of WW3/Gurpreet Singh, he has categorically stated that he does not have the records and thus cannot produce the same, for the reason that he was not the employee of the appellants. However, the factum of the documents, which have been exhibited by the respondents, could not be disputed by him rather he has categorically admitted, the said documents 33 in numbers. Counsel contends that those documents primarily were Gate Passes, which indicate that respondent No.2-workman had been working with the appellants but through an outsourcing contractor who provided labour for the appellants. When confronted by this Court on the aspect with regard to there being no evidence in support of his bald statement in the written statement where it has been stated that the father of respondent No.2 was the contractor who could, at his own level, manipulate the said documents, he could not contradict the same, as there is no evidence either in the form of statement of the management witness or document to substantiate the same.

In the light of the above, the finding as recorded by the Labour Court on the aspect that respondent No.2 workman had been working with the respondents, therefore, cannot be faulted with.

Learned counsel for the appellants has asserted that the back wages, which has been granted to the workman, may be waived off in the light of the fact that he has been granted the benefit of continuity of services and other consequential benefits from November 2001 onwards. This contention of the

learned counsel for the appellants appears to be quite justified, and therefore, we had put the said aspect to the counsel for respondent No.2, who has contended that if the private respondent is taken back in service within a period of one month and granted all consequential benefits except for the back wages, he would not press for the back wages.

In the light of the above, we dismiss the present appeal with an observation that in case respondent No.2/workman is taken back in service and granted all consequential benefits within a period of one month from today, he would forego the 20% back wages, which has been held to be given to respondent No.2/ workman, by the Industrial Tribunal-cum-Labour Court. In case of failure on the part of the appellants in taking him back respondent No.2/workman in service with all consequential benefits except for the back wages, then he will be entitled to apart from re-instatement in services with 20% back wages also, as has been awarded by the Industrial Tribunal-cum-Labour Court.

In view of disposal of the main case, no orders are required to be passed in the remaining civil misc. applications and the same also stand disposed of.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ALOK JAIN)
JUDGE

19.09.2022
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Whether speaking/reasoned Yes/No
Whether Reportable Yes/No