

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

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LPA-91-2022 (O&M)

Date of decision: 17.08.2022

Babu Lal

..... Appellant

Versus

The Presiding Officer and others

..... Respondents

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

Present :- Mr.Ajay Chaudhary, Advocate
for the appellant

ALOK JAIN, J. :

The instant Letters Patent Appeal has been preferred being aggrieved and raising challenge to the judgment dated 30.01.2020 passed in CWP No.7624 of 2011, whereby the petition has been allowed and the award dated 11.12.2009 has been set aside and the petitioner has been awarded a sum of ₹ 2,40,000/- as compensation towards full and final settlement. The appellant is aggrieved to the limited extent that instead of compensation, the appellant deserves to be reinstated.

The brief facts of the case are that the petitioner was working with the respondent-District Forest Officer as daily wager and was getting ₹ 75/- per day as wages from February, 1992. The appellant was not allowed to join duty with effect from 30.11.2000. Aggrieved by the said action of the respondent, the appellant approached the Labour Court, which vide its award dated 11.12.2009, dismissed the reference by holding that the appellant had

failed to prove on record that he had worked for 240 days in a calendar year preceding the date of his alleged termination. More so, the Labour Court also went on to the extent of holding that the appointment of the appellant itself was not made by following the due process of law and hence on this account also the appellant was not entitled for any relief.

The appellant approached this Court by filing CWP No.7624 of 2011 and the learned Single Judge vide order dated 30.01.2020 allowed the writ petition and awarded ₹ 2,40,000/- as compensation to be paid by the respondent-Management towards full and final settlement of the case in lieu of the reinstatement.

Learned counsel for the appellant has vehemently argued that since the learned Single Judge had come to the conclusion that the appellant had completed 240 days in the year preceding the date of his termination and provision of Section 25-F of the Industrial Disputes Act, 1947 not having complied with, the appellant was entitled to reinstatement.

However admittedly, learned counsel for the appellant could not demonstrate that the appointment of the appellant was done after following the due process of law and has also not been able to distinguish the ratio of law laid down in the case of ***BSNL Vs. Bhurumal 2014 (7) SCC 177***, wherein it has been held that where a workman is not working on a sanctioned post, the awarding of the reinstatement with back wages would not be justified. The relevant extract of the judgment is as under: -

“23. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied

mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wage worker and where the termination is found illegal because of procedural defect, namely in violation of Section 25F of the Industrial Disputes Act, this Court is consistent in taking the view in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.”

In the light of the above, the learned Single Judge has rightly applied the broad parameters of the ratio laid down by a Division Bench of this Court in ***CWP No.25070 of 2012 titled as “Paramjit Singh Versus Presiding Officer, Industrial Tribunal, Patiala and others”***, and the compensation has rightly been calculated and awarded. Hence, the order passed by the Learned Single Judge is affirmed.

Consequently, finding no infirmity or illegality in the judgment dated 30.01.2020 passed by the learned Single Judge, the present appeal is dismissed accordingly.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ALOK JAIN)
JUDGE

17.08.2022

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No