

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

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CWP No.292 of 2015 (O&M)
DATE OF DECISION : 6th APRIL, 2022

Ramesh Chand

.... Petitioner

Versus

The Presiding Officer, Labour Court, Patiala & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Pawan Kumar Sharma, Advocate for the petitioner.

Mr. Sukhwinder Singh Sudan, Advocate
for respondents No.2 to 4.

Mr. Brijesh Kumar, Advocate for respondent No.5 & 6.

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RAJBIR SEHRAWAT, J. (Oral)

The petitioner has filed this petition under Articles 226/227 of the Constitution of India, praying for issuance of a writ in the nature of mandamus directing the respondent No.2 & 6 to reinstate the petitioner along with full back wages with continuity of service and with all consequential benefits and for issuing writ in the nature of certiorari by modifying the award dated 25.10.2013 (Annexure P-2) passed by the Labour Court, Patiala whereby the reference made by the Additional Labour Commissioner has been only partly allowed, which is against the provisions of Industrial Disputes Act; along with certain other prayers.

The brief facts giving rise to the present petition are that petitioner-workman claimed that the petitioner worked with the

respondents from 15.07.1996 till 30.10.1999. However, on 30.10.1999 the service of the petitioner was illegally terminated by adopting unfair labour practice. Accordingly, the conciliation proceedings having failed, a reference was made to the Labour Court. The Labour Court has answered the reference in favour of the petitioner qua illegality of termination, however, has awarded only a compensation of ₹25,000/-; instead of reinstatement. It is against that award that the present petition has been filed by the petitioner; seeking reinstatement and in alternative enhancement of the compensation at a reasonable level.

The counsel for the petitioner has submitted that since the petitioner has now attained the age of superannuation, therefore, he would restrict his prayer to enhancement of compensation only. The counsel has submitted that petitioner has worked for more than three years and three months. Therefore the petitioner is entitled to enhanced compensation of a reasonable amount; keeping in view the standards laid down by Hon'ble the Supreme Court in the case of ***Bharat Sanchar Nigam Limited v. Bhurumal, SLP (C) No.14572 of 2012 decided on 11.12.2013.***

On the other hand, the counsel for the respondents have submitted that the petitioner was not entitled even to the compensation. He was not in continuous service. He had worked in different establishments, though under the respondents. However, his earlier engagements were terminated by paying him full and final payments.

Even the last employment had ended because services were dispensed

with during probation; as his work was not found satisfactory. So far as the compensation is concerned, the same has also rightly been awarded by the Labour Court and the same does not deserves to be enhanced because the Labour Court had recorded findings that the petitioner was gainfully employed after having been terminated from the service of the respondents.

Having heard the counsel for the parties and going through the paper book, this court finds substance in the arguments of counsel for the petitioner. So far as the argument of the respondent qua challenge to the validity of the termination, is concerned, the said argument can not even be entertained in the present petition. The pleading qua legality of the termination was raised by the respondents before the Labour Court. However, the same was discarded by recording specific findings that the termination of the services of the petitioner was illegal and in violation of the Industrial Disputes Act. The respondents have not challenged the said award by filing any writ petition. Hence the finding recorded by the Labour Court; on the aspect of the illegality of the termination of the service of the petitioner, has attained finality.

On the issue of compensation, the reliance of the petitioner on judgment of Supreme Court in case of ***Bhurumal (Supra)*** is found to be well placed. The Hon'ble Supreme Court in the case of ***Bhurumal (supra)*** had granted an amount of ₹3,00,000/- even for the shorter period of service. Therefore, the petitioner would be entitled to enhancement of the amount of compensation to a reasonable amount, in tune with the

above said judgment of Hon'ble the Supreme Court, though not necessarily at the same rate as awarded in the said judgment; because the petitioner has been found to be employed subsequent to his termination of service.

In view of the above, the ends of justice would be met if the petitioner is granted an amount of ₹3,50,000/- as lumpsum compensation as full and final settlement of the claim.

Accordingly, the present petition is partly allowed. The respondents are directed to pay compensation of ₹3,50,000/- in total. The respondents are further directed to make the payment of the amount within a period of two months from today.

6th APRIL, 2022
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>