IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP No.29757 of 2017 (O&M)
DATE OF DECISION : 18th APRIL, 2022

Dharambir Singh

…. **Petitioner**

Versus

The Managing Director M/s. Hidustan Unilever Ltd., (formally M/s. Modern Food Industries (i) Ltd.) & another

…. **Respondents**

222-A

CWP No.431 of 2019 (O&M)

…. **Petitioner**

M/s. Hidustan Unilever Ltd., New Delhi through Ms. Swati Mujumdar, Regional Legal Manager-North.

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Faridabad & another

…. **Respondents**

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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Present : Mr. Dharambir Singh, petitioner/workman - in person in CWP No.29757 of 2017.

Mr. Sandeep Prabhakar, Advocate and
Mr. Dhanderdeep Singh, Advocate for the employer.
in CWP No.29757 of 2017 and CWP No.431 of 2019.

Mr. Dinesh Pal, respondent No.2/workman in person in CWP No.431 of 2019.

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RAJBIR SEHRAWAT, J. (Oral)

1. This order shall dispose of the above said two writ petitions because of similar aspect being involved in the same, i.e., the liability of the employer.

2. These are the two petitions, one of them is filed by petitioner-Dharambir Singh under Articles 226 & 227 of the Constitution of India seeking issuance of writ in the nature of certiorari for quashing impugned award dated 18.09.2017 passed by the Learned Labour Court-I, Faridabad; along with certain other prayers, and another petition is filed by petitioner/employer-M/s. Hindustan Unilever Limited, praying for issuance of writ in the nature of certiorari for quashing the impugned award dated 28.08.2018 passed by Learned Labour Court-II, Faridabad; along with certain other prayers.

3. The brief facts, as involved in the present petitions are that the petitioner-workman-Dharambir Singh in CWP No.29757 of 2017 and respondent No.2-Dinesh Pal in CWP No.431 of 2019, were employed with Modern Food Industries (India) Limited. While workman-Dharambir Singh was appointed for Delhi Bakery Unit of the company in his capacity as Fitter Grade-II, the workman-Dinesh Pal was appointed for head office in his capacity as Junior Assistant. Both the workmen were transferred from their respective places to the Faridabad unit of the employer-company. However, the unit at Faridabad was closed on 19.12.2003. This necessitated the retrenchment of all the workmen working in the said unit. Accordingly the present workmen were also offered the retrenchment compensation in accordance with the provisions of the Industrial Disputes Act. Workman-Dharambir Singh accepted the said compensation, though under protest but the workman-Dinesh Pal did not accept the same. They raised industrial dispute. The same having been referred to the Labour Court, Faridabad, has been answered by the

Labour Court against the workman-Dharambir and in favour of workman-Dinesh Pal. Challenging the two separate awards the present writ petitions have been filed. In CWP No.29757 of 2017 workman-Dharambir Singh has challenged the award passed by the Labour Court, Faridabad, whereby the reference has been answered by awarding him the compensation to the tune of ₹7,00,000/-. His prayer is that he deserves to be reinstated into service. In the award involved in CWP No.431 of 2019 the employer-company has challenged the award whereby workman-Dinesh Pal was ordered to be reinstated in service with 50 % of back-wages with 9% interest from the date of award. The employer has filed the writ petition challenging order of reinstatement and payment of back-wages with 9% interest.

4. The petitioner/workman-Dharambir Singh, after arguing for some time, has submitted that he agrees and accept the amount of compensation as awarded by the Labour Court. But since that amount was awarded several years back and in another case the Labour Court has awarded the interest @ 9%, therefore, he deserves to be awarded the interest @ 9% on the amount awarded by the Labour Court. The same be awarded to him as well.

5. The respondent No.2-workman-Dinesh Pal has contested the writ petition, i.e., CWP No.431 of 2019, filed by the employer, by arguing that the Labour Court has rightly ordered his reinstatement. It is submitted by the workman that during conciliation proceedings the employer itself has admitted that the head office of the company Hindustan Unilever Limited, of which the Modern Food Industries (India) Limited was a subsidiary company, existed at Mumbai.

Therefore, since the company-Hindustan Unilever Limited is still in existence, hence, workman has rightly been ordered to be reinstated in service with 50% back-wages. Still further, it is submitted by respondent No.2-workman-Dinesh Pal that since the work still exists, therefore, the respondent-workman should be continued in service. The respondent-workman has specifically argued that he does not want any compensation. Rather, he would insist upon his reinstatement.

6. On the other hand, the counsel for the employer have submitted that the Modern Food Industries (India) Limited was going in loss, therefore, the units existing at Faridabad and Delhi were closed in the years 2003 and 2005 respectively. The employees working in these units were offered the Voluntary Retirement Scheme (VRS) benefits. Most of the workmen working in these units had accepted the VRS and were accordingly paid off. However, the workman-Dharambir Singh had accepted the retrenchment compensation under protest but workman-Dinesh Pal had not accepted the said compensation. However, subsequently all the units in Northern region were closed down. Remaining six units in Southern region have also been sold along with its brand name 'Modern Food'. Hence, as of now no unit of Modern Food Industries (India) Limited is functioning. Not only this the head office of Modern Food Industries (India) Limited situated at R. K. Puram, Delhi, stands closed and not even a single employee is working there. The counsel have further submitted that under the orders of the Delhi High Court, the company-Modern Food Industries (India) Limited stands closed. It is further submitted by the counsel for the employer that earlier the process of disinvestment was started and 74% stake in Modern Food

Industries (India) Limited was already sold to Hindustan Unilever Limited as equity holder. However, subsequently, under the orders of Delhi High Court, exercising the jurisdiction as company court, the company-Modern Food Industries (India) Limited, along with its assets and liabilities, stands amalgamated with Hindustan Unilever Limited. Hence, as of now the company-Modern Food Industries (India) Limited does not exist as a legal entity. Hence there is no scope for re-instatement of workman in service.

7. Having heard the counsel for the parties, this court finds substance in the arguments raised by counsel for the employer, so far as the reinstatement of the workman is concerned.

8. In so far as the prayer made by workman-Dharambir Singh, is concerned, this court finds substance in his submission that since the money which was awarded by the Labour Court has not been paid for a long time, therefore, he should be compensated by awarding interest at the reasonable rate. Since the Labour court has itself awarded interest @ 9% in the award under challenge in CWP No.431 of 2019, therefore, it would be appropriate to award interest @ 9% to workman-Dharambir Singh on the amount of ₹7,00,000/- as awarded by the Labour Court. Even the counsel for the employer has agreed to this award of interest at the rate of 9% to workman-Dharambir Singh. Accordingly, CWP No.29757 of 2017 filed by workman-Dharambir Singh is partly allowed by awarding him interest @ 9% per annum from the date of award passed by the Labour Court till actual payment, on the amount of ₹7,00,000/-.

9. The counsel for the respondent-employer undertakes to release this amount within a period of four weeks from Hindustan

Unilever Limited which is the successor company of Modern Food Industries (India) Limited. Ordered accordingly. Let the amount be released to workman-Dharambir Singh within a period of four weeks from today. The workman-Dharambir Singh has undertaken to provide the bank details to respondent-employer and the above said amount shall be transferred to the said account within the aforesaid period of four weeks. Additionally, it is also directed that the employer shall take every possible step, required to be taken by it, to ensure that any other amount, including amount of employees provident fund, is released to workman-Dharambir Singh, at the earliest possible.

10. So far as the claim of workman-Dinesh Pal, is concerned, this court finds substance in the argument of the petitioner-employer. As per the material on record, the unit, where the respondent-workman Dinesh Pal was working at the relevant time, was closed down. All the employees were offered the VRS; which was availed by most of the employees at that time. Thereafter, the production at most of the units was stopped by the company. Only six units of the company were in operation in Southern region. However, even those units stood sold to M/s. Niman Foods Private Limited in the year 2015. Hence, as of today there is no food unit of the petitioner-employer working anywhere. Not only this, even the assets and liabilities of the said company have already gone to Hindustan Unilever Limited by way of order dated 15.01.2007 passed by the Delhi High Court. Hence, as of today the petitioner-employer does not exist as an independent legal entity. There is no Head Office of the company-Modern Food Industries (India) Limited, in existence anywhere as of today. In this conspectus

there is no legal entity where the respondent/workman-Dinesh Pal could be ordered to be reinstated, as a result of adjudication of the dispute. Although, the respondent-workman has expressed his desire only to get the reinstatement, however, as mentioned above, the possibility of reinstatement stands frustrated because of intervening facts through which the legal entity of Modern Food Industries (India) Limited stands extinguished. However, since there is successor company which has taken up the financial liability of the Modern Food Industries (India) Limited, therefore, the compensation can still be paid to respondent/workman-Dinesh Pal. Hence, it would be in fitness of the things if the respondent-workman is awarded the compensation in place of order of reinstatement.

11. Qua the quantum of compensation, this court has already upheld the quantum of compensation awarded to the workman-Dharmbir Singh, which was quantified by the Labour Court as ₹7,00,000/-, therefore, it would be in the interest of justice to award an amount of ₹7,00,000/- as compensation to workman-Dinesh Pal, as well. Since, the matter has been pending adjudication, therefore, any amount of compensation, to be awarded to respondent/workman-Dinesh Pal, has to carry some interest as well. The counsel for the petitioner-employer has expressed no objection to award of interest @ 9% on the amount of compensation awarded to the respondent/workman-Dinesh Pal.

12. Accordingly, the award passed by the Labour Court, challenged by way of CWP No.431 of 2019, is set aside to the extent of ordering reinstatement with 50% of full back-wages. The respondent/workman-Dinesh Pal is held entitled to a compensation of

₹7,00,000/-, along with interest @ 9% per annum from the date of award passed by the Labour Court till the actual payment. The said amount is ordered to be paid to the respondent/workman-Dinesh Pal within a period of four weeks from today. The respondent/workman-Dinesh Pal shall also furnish the account details to the petitioner-employer within a period of two weeks from today, whereafter the amount of compensation shall be deposited in that account within a period of four weeks, as mentioned above. Additionally, it is also directed that the employer shall take every possible step, required to be taken by it, to ensure that any other amount, including amount of employees provident fund, is released to workman-Dinesh Pal at the earliest possible.

13. In view of the above, both the writ petitions stand disposed of in the above said terms.

14. All the pending applications, if any, stand disposed of accordingly.

18th APRIL, 2022 **(RAJBIR SEHRAWAT)**
'raj' **JUDGE**

Whether speaking/reasoned: Yes No

Whether Reportable: Yes No