

LPA-1807-2017 (O&M)

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

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LPA-1807-2017 (O&M)
Date of decision : 28.03.2022

Kurukshetra University, Kurukshetra & another

.....Appellants

VERSUS

Raj Kumar & another

....Respondents

**CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

Present: Mr. A.S. Virk, Advocate, for the appellants.

Mr. Rajesh Arora, Advocate, for respondent No.1.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the order dated 01.08.2017 passed by the learned Single Judge, vide which the writ petition preferred by respondent No.1 – Raj Kumar has been partly allowed by setting aside the award dated 03.02.2011 (Annexure P-4) passed by the Labour Court, Ambala, rejecting his reference despite the fact that he was held to have been appointed in the year 1998 and worked upto 09.11.2002 with a finding that respondent No.1 had rendered 240 days service in a calendar year, ordering reinstatement in service with continuity thereof, however, the benefit of back-wages has been denied for the reason of such a delay in approaching the Court.

It has been said by the learned Single Judge that in another CWP No.19990 of 2012, which related to one of the co-employees of the respondent workman has been allowed by this Court vide order dated

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16.10.2015 (Annexure P-7) granting not only the reinstatement with continuity in service but 50% back-wages only. It is, on this basis, the writ petition was allowed denying respondent No.1 the benefit of 50% back-wages because of the delay in approaching this Court by five years.

2. Learned counsel for the appellants submitted that the order passed by the learned Single Judge cannot sustain in the light of the inordinate unexplained delay on the part of respondent No.1 in approaching this Court while challenging the award passed by the labour Court, Ambala, dated 03.02.2011 (Annexure P-4) after a delay of five years. The Court could have granted him compensation for the period he had performed his duties with the appellants instead of ordering his reinstatement. He, however, could not dispute the fact that the case of respondent No.1, otherwise on facts, is identical except for the fact that respondent No.1 has not approached this Court within the reasonable time of passing of the award which the other similarly placed employees had done. Counsel for the appellants has also made an effort to point out that respondent No.1 had even approached the Labour Court after a delay of almost six years from the date of his termination. On this basis, he submits that the impugned order dated 01.08.2017 passed by the learned Single Judge cannot sustain and deserves to be set aside.

3. Learned counsel for respondent no.1, on the other hand, has pointed out that out of the 17 similarly placed workmen, 04 were granted the benefit of reinstatement in service by the Labour Court vide its award which was challenged by the appellant – University by way of writ petition in this Court and 13 claims made by the workmen including that of respondent No.1 were rejected by the Labour Court, who also approached

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this Court by filing various writ petitions. It is true that respondent No.1 had approached the Court after a delay as the similarly placed workmen had approached the Court by way of filing the writ petitions in the years 2011-12. He submits that the writ petitions which were preferred by the appellant – University were dismissed and those of the other co-workmen were allowed ordering their reinstatement with 50% back-wages. Letters Patent Appeals preferred by the appellants – University were dismissed by this Court vide common order dated 30.01.2017, leading case being LPA No.1881 of 2015, titled as 'Kurukshetra University, Kurukshetra Vs Raj Rani and others'. Special Leave Petitions preferred against the said judgment were dismissed by the Hon'ble Supreme Court vide order dated 10.04.2017. Counsel, on these factual assertions and basis, contends that the order passed by this Court having attained finality in the case of similarly placed employees, the judgment passed by the learned Single Judge is fully justified and based upon the correct appreciation of the facts and the relief also has been granted appropriately.

4. We have considered the submissions made by the learned counsel for the parties and are of the view that the order passed by the learned Single Judge do not call for any interference by us in the present appeal. The reason for our such observation is based upon the fact that the similarly placed workmen, whose References have been rejected by the Labour Court when had challenged the said award before this Court, their writ petitions were allowed granting them 50% back-wages and reinstatement in service with continuity thereof. The said judgment has attained finality upto the Hon'ble Supreme Court. Counsel for respondent No.1 has also brought to our notice that the said order has been

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implemented by the appellant – University and the services of the petitioners in those writ petitions have also been regularized, which fact has not be disputed by the counsel for the appellants. Respondent No.1 being similarly placed as the co-workmen has been rightly considered accordingly by the learned Single Judge.

5. The only distinction which has been drawn is that respondent No.1 had approached this Court after a delay of 5 years from the date of passing of the award by the Labour Court, which aspect has been taken note of and it is, for that reason, he has been denied the back-wages, which, in our opinion, justifies the order passed by the learned Single Judge with regard to the aspect of denying him the back-wages, whereas the similarly placed co-workmen have been granted the said benefit.

6. In view of the above, the present appeal being devoid of merit, stands dismissed.

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In the light of the dismissal of the main appeal, no order is required to be passed in the present application for stay of the operation of impugned judgment as the same has been rendered infructuous.

Disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

28.03.2022
Harish

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No