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

CR No.860 of 2017 (O&M)
Reserved on: 04.12.2023
Date of decision: 18.12.2023

Mohan Singh

....Petitioner

Versus

Garrison Engineer

....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Vikas Chatrath, Advocate
with Mr. B.P.S. Thakur, Advocate
and Mr. Abhishek Singla, Advocate
for the petitioner.

Mr. Vipul Aggarwal, Advocate
Senior Panel Counsel for the respondent.

NAMIT KUMAR J. (Oral)

1. The instant revision petition has been preferred by the petitioner under Article 227 of the Constitution of India, impugning the order dated 31.08.2016 (Annexure P-4) passed by the learned Additional District Judge, Bathinda, whereby the execution petition filed by the petitioner has been disposed of being fully satisfied.

2. The brief facts as pleaded in the petition are that the petitioner was appointed as Switch Board Attendant w.e.f. 12.04.1983 on daily wage basis and his services were terminated in the month of January, 1987. He raised an industrial dispute and the matter was referred to the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh (hereinafter to be referred as 'the Tribunal'), wherein the following dispute was referred for adjudication:-

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“Whether the action of the management of MES in terminating the services of Sh. Mohan Singh, s/o Sh. Gurbachan Singh is legal and justified? If not, to what relief the concerned workman is entitled and from which date?”

3. It was pleaded before the learned Tribunal that the services of the petitioner/workman has been terminated without giving him any compensation or serving 01 months' notice and the same is in violation of Section 25-F of the Industrial Disputes Act, 1947. It was also pleaded that the management terminated the services of about total of 70 daily wage employees, including the present petitioner/workman w.e.f. January, 1987. Award dated 05.01.2015 was passed by the learned Tribunal, and the reference was answered in favour of the present petitioner and the following findings were recorded:-

“The workman has specifically pleaded in para 1 of the statement of claim that he was engaged on 12.4.1983 on daily wage basis and his services were terminated w.e.f. January, 1987. The respondent management did not controvert this fact in para 1 of the written statement and rather admitted the same and it is only pleaded in para 4 on merits that he did not complete 240 days in any calendar year. Since the management itself admit that the workman worked from 12.4.1983 to January, 1987, it is for the management to prove by leading cogent evidence that the workman did not complete 240 days in a calendar year prior to the termination of his Services. Narinder Singh has deposed about the days the workman worked during the year 1982, 1983, 1984 and 1985 but he did not utter a single word about the days workman worked in the year 1986 and therefore it cannot be said that the

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workman did not complete 240 days in a calendar year preceding the termination of his services in January 1987. Thus it is to be held that he completed 240 days of continuous service, prior to the termination of his services. No retrenchment compensation or notice was issued to him as specified under Section 25F of the Act, and as such, his termination is held to be illegal.

It is also not denied that services of the 70 employees including the workman were terminated in January, 1987. All of them filed OAs before the Central Administrative Tribunal which were dismissed by common order dated 19.8.1992. The workmen, but not the present workman, preferred SLP before the Hon'ble Supreme Court who set aside the order of the Central Administrative Tribunal with a direction to the management to consider the case in accordance with law laid down in State of Haryana Vs. Piara Singh vide order dated 2.9.1996. In pursuance of the said order, the management reinstated the other employees. Since the order of the Central Administrative Tribunal was set aside, it was for the management to consider the case of the present workman also. But no step was taken by the management in this direction. It was contended that there is a delay in raising the industrial dispute which is sufficient to hold that claimant cannot claim any relief in the present reference. Suffice it to say that the Hon'ble Supreme Court passed the order in 1996 and thereafter the co-workers, who were admittedly similarly situated as the present workman, were reinstated. The workman raised the industrial dispute and the reference was received in the year 2000. Thus there is an inaction not on the part of the workman but on the part of the management and the workman initiated the proceedings

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without any inordinate delay.

Therefore on the ground of parity and the fact that termination of his services is not legal and he is entitled to be reinstated in service. Since he did not file SLP before the Hon'ble Supreme Court and only raised the present dispute, he cannot claim back wages for the period he remained out of service. Moreover there is nothing on the file to suggest that he did not remain gainfully employed during the period of his discontinuance of service and he himself is totally silent about this fact when appeared in the witness box. Thus he is to be reinstated in service but without back wages.

In result, it is held that termination of the services of workman is illegal and he is entitled to be reinstated in service but without back wages. The management is directed to reinstate him in service within 2 months from the publication of the award. The reference is accordingly answered in favour of the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

*(Kewal Krishan)
Presiding Officer,
Central Government Industrial
Tribunal-cum-Labour Court-II,
Chandigarh.”*

4. Since the said award dated 05.01.2015 passed by the learned Tribunal was not implemented, therefore, an execution was filed by the present petitioner before the learned Additional District Judge, Bathinda, and during the pendency of the revision petition, the appointment letter dated 21.07.2016 was produced before the Court and it was stated that the petitioner has been reinstated in terms of the appointment letter dated 21.07.2016 and consequently, the execution

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was disposed of being fully satisfied vide order dated 31.08.2016, which reads as under:-

“Mohan Singh vs Garrison Engineer

***Present: Sh. C.D. Arora, counsel for petitioner.
Sh. Mithu Ram Gupta, counsel for respondent.***

The learned counsel for the respondent has produced copy of letter dated 2.8.2016 alongwith copy of appointment letter dated 21.7.2016 issued in the name of Mohan Singh son of Gurbachan Singh, on behalf of Garrison Engineer. Since in pursuance of Award dated 5.1.2015, Mohan Singh has been issued appointment letter, as such, the present proceedings are disposed of being fully satisfied.

***Pronounced
Dated 31.8.2016***

***(Kanwaljit Singh Bajwa)
Additional District Judge,
Bathinda/31.8.2016”***

5. The said order dated 31.08.2016 has been impugned in the present revision petition.

6. In pursuance to various orders passed in the instant revision petition, an affidavit of Rahul Rawat, Major, Garrison Engineer (Utility) Bathinda Mill Station, Bathinda Cantt. Punjab, dated 25.11.2019, has been filed wherein it has been stated that the petitioner/Mohan Singh has been reinstated in service on the same terms and conditions on which the other similarly situated persons i.e. about 70 daily wage employees, as mentioned in the award dated 05.01.2015, have been reinstated and no discrimination has been made with the petitioner while issuing his orders of reinstatement. Along with the said affidavit, an

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appointment letter of one Sh. Lal Ji son of Sh. Barati Ram dated 26.06.1998, has been annexed. Yet another affidavit dated 30.11.2023 of Sh. Vipin Chandra Rai, Garrison Engineer (Utility), Bathinda, Mill Station, Punjab, has been filed wherein the particulars of the 20 individuals, out of total 70 individuals, whose services were terminated in January, 1987, and the same is as under:-

Sr. No.	Name & Father's Name	Date of Appointment
1.	Gurpreet Singh s/o Jawala Singh	26.06.1998
2.	Hakam Singh s/o Surjit Singh	25.06.1998
3.	Nanju Ram s/o Bhagat Ram	26.06.1998
4.	Gurjant Singh s/o Jagtar Singh	26.06.1998
5.	Harnek Singh s/o Harjit Singh	26.06.1998
6.	Kashmir Singh s/o Nand Singh	25.06.1998
7.	Mast Ram s/o Ganpat Ram	22.06.1998
8.	Itwar Chand s/o Todar Mal	12.03.2007
9.	Rai Singh s/o Diwari Lal	25.10.2002
10.	Raman Singh s/o Moti Ram	26.06.1998
11.	Gurpreet Singh s/o Rajinder Singh	25.06.1998
12.	Budh Singh s/o Gurdev Singh	25.06.1998
13.	Lalji s/o Barati Ram	26.06.1998
14.	Toga Singh s/o Ram Singh	26.06.1998
15.	Bagga Singh s/o Jarnail Singh	26.06.1998
16.	Bhagwan Singh s/o Bikar Singh	26.06.1998
17.	Rajesh Kumar s/o Lal Bir Chand	26.06.1998
18.	Raj Kumar s/o Tej Ram	26.06.1998
19.	Rajdev Yadav s/o Jhiaju Yadav	26.06.1998
20.	Billu Singh s/o Kaka Singh	26.06.1998

7. Learned counsel for the petitioner submits that since the other employees, whose services were also terminated along with the present petitioner in the month of January, 1987 have been ordered to be reinstated in service w.e.f. 26.06.1998, therefore, the petitioner cannot

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be discriminated as he has been reinstated in service vide appointment letter dated 21.07.2016. He further submits that once in the award dated 05.01.2015 passed by the learned Tribunal, the reference has been answered in favour of the petitioner on the ground of parity, he is also entitled to be reinstated in service w.e.f. 26.06.1998.

8. Learned counsel for the petitioner has relied upon Division Bench judgment of this Court passed in **CWP No.5515 of 2016**, titled as ***“Union of India and others vs Central Administrative Tribunal and others”***, decided on **22.03.2016**, vide which the order passed by the Central Administrative Tribunal dated 08.10.2015 passed in O.A. No.060/00391/2015 wherein the claims of the applicants in the said O.A. with regard to their status as MPA/Lineman w.e.f. 26.06.1998, has been upheld. The relevant portion of the said judgment reads as under:-

“(4) It is true that the respondents No. 2 and 3 approached the Tribunal belatedly to treat them as MPA/Lineman w.e.f. 26.6.1998. The Tribunal took note of such delay and has restricted arrears of pay to the period of 18 months prior to the date of filing of the Original Application in January 2014.

(5) The petitioners having accepted and implemented the decision of the Tribunal passed in OA No. 666/PB/2008 and have granted the status of MPA/Lineman w.e.f. 26.6.1998 to the applicants of that case. The decision relates to treating those Mazdoors as MPA/Lineman who were appointed in the year 1998, therefore, the principle laid down by the Tribunal, will uniformly apply to each Mazdoor working in the petitioner's department. In fact, the petitioners could have suo moto taken a decision to extend the benefit of the

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decision in OA No. 666/PB/2008 as a model employer instead of driving each and every Mazdoor to the Court to treat them as MPA/Lineman w.e.f. 26.6.1998. In this regard, the Apex Court, Courts and Tribunal have held that if a general principle is laid down, in so far as extending service benefits to an employee, the same shall be extended to each and every similarly situated employee. Moreover, in the present petition, we have noticed that juniors to respondents No. 2 and 3 were extended the service benefit of equating Mazdoors as MPA/Lineman. Therefore, even if there is a delay in approaching the Tribunal by the respondents No. 2 and 3, that would not come in the way of extending the benefit which has been granted to similarly situated junior employees of respondents No. 2 and 3. That apart, the earlier decision has been affirmed by the Apex Court. Therefore, there is no infirmity in the order dated 8.10.2015 passed in OA No. 060/00391/2015.

(6) Accordingly, the writ petition stands dismissed.

(7) No order as to costs.”

9. On the other hand, learned counsel for the respondent could not dispute the abovesaid factual aspect that the other co-employees have been reinstated on various dates as has been mentioned in the comparative chart, reproduced hereinbefore.

10. I have heard the learned counsel for the parties and perused the case file.

11. Admittedly, the petitioner was appointed as Switch Board Attendant on daily wage basis on 12.04.1983 and his services were terminated along with 69 others employees, in the month of January, 1987. The other 69 employees approached the learned Central

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Administrative Tribunal by filing various OAs, which were allowed and they were ordered to be reinstated in service and the said order became final upto the Hon’ble Supreme Court. In this view of the matter, the reference of the present petitioner was answered in his favour by the learned Tribunal vide award dated 05.01.2015 and on the ground of parity, the termination of the petitioner was held to be illegal and he was held entitled to be reinstated in service but without back wages. Since most of the other employees have been ordered to be reinstated in service w.e.f. 26.06.1998, therefore, the petitioner cannot be discriminated and he is also entitled to be reinstated in service with effect from the same date i.e. 26.06.1998 instead of 21.07.2016.

12. Consequently, the present petition is allowed. The impugned order dated 31.08.2016, passed by the learned Additional District Judge, Bathinda is set-aside and the petitioner is held entitled to be reinstated in service w.e.f. 26.06.1998 instead of 21.07.2016.

13. Pending applications, if any, are also disposed of.

14. It is made clear that the petitioner shall not be entitled to back wages in terms of the award dated 05.01.2015, passed by the learned Tribunal on his appointment w.e.f. 26.06.1998.

(NAMIT KUMAR)
JUDGE

18.12.2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No