

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-16418-2015 (O/M)
Date of decision : 18.12.2023

The Superintending Engineer, Yamuna Water Services, Circle Bhiwani,
Haryana Petitioner

Versus

Azad Singh and another Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Satish Singla, DAG Haryana
for the petitioner with
Mr. Anil Kumar, XEN Water Supply Irrigation, Bhiwani.

None for respondent No. 1.

-. -

-. -

HARSH BUNGER, J. (ORAL)

1. Petitioner (The Superintending Engineer, Yamuna Water Services, Circle Bhiwani, Haryana) has filed instant writ petition under Articles 226/227 of Constitution of India seeking a writ in the nature of certiorari for quashing the impugned Award dated 21.11.2014 (Annexure P-3) passed by learned Industrial Triubal-cum-Labour Court, Hisar (hereinafter referred to as 'the Tribunal'), whereby the reference of industrial dispute raised by respondent No. 1 herein was answered in his favour and a direction was issued to petitioner herein to reinstate respondent No. 1 in service with all consequential benefits but without back wages.

2. Vide impugned award dated 21.11.2014 (Annexure P-3), the Tribunal observed as under :-

“21. The next question which arises for determination is that to what relief the petitioner is entitled for violation of provisions contained under Section 25-F of the Act. Keeping in view the fact that the petitioner was appointed on the post of Canal Patwari and he has continuously worked from 01.09.2009 to 31.01.2012 and the post on which he was appointed is still in existence, he is entitled to relief of reinstatement with benefit of continuity of service. However, he is not entitled to back wages as he did not work during the intervening period and his appointment was on temporary basis. This issue is answered accordingly.

RELIEF

22. For the reasons recorded above, the respondent is directed to reinstate the petitioner into service with immediate effect with all consequential benefits but for back wages as he did not work during the intervening period and his appointment was on temporary basis. The reference is answered accordingly. File be consigned to records after due compliance.”

3. Against the aforesaid award, the petitioner has filed instant writ petition before this Court.

4. At the time of preliminary hearing of the instant writ petition, while issuing notice of motion, the operation of impugned award was ordered to be stayed.

5. A perusal of order sheets would reveal that vide order dated 05.10.2015, the following order was passed :-

“ *Mr. Lamba has brought to the notice of the Court that for lack of instructions to the learned Additional Advocate General, Haryana, who appeared before this Court on 11.8.2015, it could not be pointed out that the department had reinstated the petitioner vide office order dated 11.12.2014, endorsed on 12.12.2014 and therefore, the award has been implemented without making it subject to further proceedings. He has produced a copy of CWP No. 21241 of 2015, where respondent No.1 in this petition was compelled to approach Court to challenge the office order dated 19.8.2015 passed as a consequence of the interim order passed by this Court on 11.8.2015 in the present petition. The Coordinate Bench has expressed its helplessness in challenge to the order dated 19.8.2015 in view of the interim order passed by this Bench. Mr. Lamba seeks leave to file the written statement in this petition in Court without routing it to the registry. Prayer is accepted. Written Statement is taken on record. Copy supplied to the learned State counsel.*

Since this Court passed the interim order of stay on the assumption that the respondent Azad Singh had not joined service in implementation of award, it would neither be just or fair to continue the order dated 11.8.2015 to the extent it grants stay under mistake of fact. Since the factual position was not brought to the notice of the Court when the interim order was passed, therefore, it would be in the fitness of things that the stay order should not continue. Ms. Dhiman submits and would readily agree that Mr. Bedi, Additional Advocate General, when he appeared for the State he was not aware of the existence of the office order reinstating the respondent to service. Having

known of this fact, there is no question that Mr. Bedi would not have brought it to the notice of the Court.

Adjourned to 11.12.2015 for further hearing on merits.

Stay granted vide order dated 11.8.2015 is vacated.”

6. Today, learned State counsel appearing for petitioner submits that the instant writ petition has been rendered infructuous as respondent No. 1 had already attained the age of superannuation and has since retired.

7. In view of above, the instant writ petition is dismissed as having been rendered infructuous.

8. All pending application (s), if any, shall stand closed.

(HARSH BUNGER)
JUDGE

18.12.2023
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No