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

**CWP-17602-2015 (O&M)
Date of Decision: 28.04.2023**

CHARANJIT SINGH**.. Petitioner****Vs.****INDUSTRIAL TRIBUNAL PATIALA AND ORS****..Respondents****CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Ms. Gauri, Advocate for
Mr. Ravi K. Mattoo, Advocate for the petitioner.

Ms. Jasleen Kaur Sidhu, DAG, Punjab.

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Manoj Bajaj, J. (Oral)

Petitioner-workman has filed this writ petition under Article 226 Constitution of India for issuance of a writ of Certiorari to challenge the award dated 05.11.2014 (Annexure P-1) passed by respondent No.1-Industrial Tribunal, Patiala, whereby his claim for reinstatement in service with continuity of service and backwages has been declined and alternatively a compensation of Rs.30,000/- along with interest @ 6% p.a. has been awarded.

Briefly, the facts as per the claim statement of the petitioner-workman are that he was engaged as Driver vide letter dated 27.08.1996 and joined his services w.e.f. 04.09.1996 with the respondent No.2-department and thereafter, he worked continuously till 05.10.2000. The services of the petitioner were terminated on 30.09.2000 and the said action of respondent No.2 is violative of the principles of natural justice, as no notice, charge-sheet etc. was served upon him. Further, it was pleaded that the post of the

driver is still lying vacant and at the time of termination of services, he was drawing wages @ Rs.2400/- p.m. According to the workman, he had worked for more than 240 days in a calendar year and the removal from service is violative of the provisions of Industrial Disputes Act, 1947 and prayed for reinstatement with all consequential benefits.

The claim was contested by the respondents No.2 and 3 and in their written statement, a preliminary objection was raised regarding maintainability of the claim. Further, it was highlighted that he was appointed on a contract basis for a period of 89 days and worked on that basis till 30.09.2000. Thereafter, extension of service was not granted to the petitioner and was relieved, however, later the workman was again offered appointment to rejoin his duties w.e.f. 02.11.2000, but despite receiving the letter, he did not join the duties. The respondent No.2 also pointed out that the workman had filed a civil suit on the same cause of action, which was dismissed vide judgment and decree dated 02.09.2005.

The petitioner filed replication to controvert the averments contained in the written statement and reiterated his stand as pleaded in the claim statement.

Upon completion of the pleadings of the parties, issues were framed by Labour Court, Patiala on 01.11.2010 and thereafter, the parties adduced their respective evidence.

After hearing the arguments of the learned counsel for the parties and considering the material on record, the labour Court vide impugned award dated 05.11.2014 declined the claim of the workman for reinstatement in service with continuity of service, but granted him

compensation of Rs.30,000/- along with interest @ 6% p.a. Hence, this writ petition.

Today, learned counsel for the petitioner prays for an adjournment on the ground that the arguing counsel is not available, but considering the fact that the writ petition is of the year 2015, this Court is not inclined to adjourn this case, as perusal of the order sheets on record would show that the counsel for the petitioner has been taking adjournments frequently. Thus, vide order dated 07.09.2022, notice regarding pendency of the writ petition was sent to the petitioner to enable him to engage another counsel. As per the office report, the said intimation was conveyed to the petitioner.

Upon examining the facts and circumstances of this case, this Court finds that the petitioner had worked with the respondent No.2 for a short period w.e.f. 27.08.1996 to 20.09.2000 and aggrieved against his alleged removal from service, the petitioner had previously filed a civil suit bearing No.97-T/04 dated 19.12.2000, which was dismissed by the Civil Judge, (Jr. Divn.), Patiala vide judgment and decree dated 02.09.2005 (Exs. M-8 and M-9) respectively. Aggrieved against this judgment and decree, he preferred Civil Appeal bearing No.379-T dated 07.04.2006 and the same also failed through judgment and decree dated 02.08.2006 (Exs. M-10 and M-11) respectively.

Since the concurrent findings of fact were recorded against the petitioner and aggrieved against this, he preferred regular second appeal bearing No.2864/2007 and vide order dated 15.09.2008 (Ex. MX), the counsel for the appellant was allowed to withdraw the regular second appeal with a liberty to invoke the Industrial Disputes Act, 1947.

Pursuant to this liberty, the petitioner started second round of litigation under the Industrial Disputes Act, whereupon impugned award has been passed. Though the issue of removal from service stands adjudicated by Civil Court and the decree passed against the workman stands against him, however, the labour Court upon examining the evidence on record proceeded to hold the termination of service of the petitioner as violative of Section 25-F of the Industrial Disputes Act, 1947, but refused to order reinstatement and alternatively, awarded a compensation of Rs.30,000/-.

Considering the short length of service of the petitioner and other attending circumstances, this Court finds that the Industrial Tribunal, Patiala has rightly declined the relief of reinstatement to the petitioner.

Thus, finding no merit in this writ petition, this Court is not inclined to exercise the extra ordinary writ jurisdiction under Article 226 Constitution of India.

Dismissed.

28.04.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No