

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

CWP-24022-2013

Date of decision : 16.02.2023

Bhavishan Dutt

...Petitioner

Vs.

**Presiding Officer, Industrial Tribunal
Patiala and another**

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. D.K.Sihag, Advocate for
Mr. Ajay Pal Singh, Advocate for the petitioner.

Mr. Pawan Kumar Mutneja, Sr.Advocate with
Mr. Suverna Mutneja, Advocate for respondent No.2.

Mr. Sukhwinder Singh Sudan, Advocate for respondent No.3.

MANOJ BAJAJ, J.

By means of this writ petition under Article 226 Constitution of India petitioner has prayed for issuance of a writ of certiorari for quashing the impugned order dated 08.05.2013 (Annexure P-14) passed by respondent No.1, whereby his claim for retrenchment in service was declined and only a compensation of Rs.35,000/- was awarded to him towards his retrenchment.

Learned counsel for the petitioner/workman has argued that the petitioner served the management as tractor mechanic w.e.f.16.12.1995 to 02.06.2000, who was drawing monthly salary of Rs.3,500/- and his services were illegally terminated without even complying with the mandatory provisions of Industrial Disputes Act, 1947. He submits that the juniors to the petitioner were retained, whereas the petitioner was not allowed to work w.e.f.02.06.2000 and by that time, he had completed 240 days of his service in a calendar year. He has further argued that once the Labour Court arrived at a

conclusion that the petitioner was wrongly terminated from his services, therefore, it was incumbent for the Labour Court to order his reinstatement, but instead of granting the said relief, it has directed the payment of retrenchment compensation of Rs.35,000/-. He submits that the impugned award is not sustainable as the relief granted to the workman is disproportionate, therefore, interference is warranted by this Court under Article 226 Constitution of India.

Learned counsel representing respondent Nos.2 and 3 have argued that the claim of the workman is uncertain, who even could not identify the correct management with whom he was working and after filing of the claim statement, he sought amendment to implead another management M/s Swaraj Tractor Division, Mohali. Learned counsel further submitted that the petitioner was appointed because of availability of extra work and after completion of his fixed period of six months, he was relieved. The appointment of the petitioner was never continuous and he was relieved on 02.06.2000 on completion of last term of employment. According to learned counsel the petitioner/workman has been adequately compensated by awarding retrenchment compensation of Rs.35,000/-.

After hearing learned counsel for the parties and considering their submissions, this Court finds that the workman allegedly worked with the respondent as tractor mechanic for approximately four years, and as per his own stand he actually and physically worked in tractor division being tractor mechanic, whereas his appointment and attendance was shown in Swaraj Combine Division also. As per the observations of the Labour Court, both these managements are two divisions of one unit, namely, Punjab Tractor Division, and upon considering the material on record, it has been held by the

Labour Court that petitioner/workman worked for more than 240 days, who cannot be denied the benefit of Industrial Disputes Act, 1947. The Labour Court while denying him reinstatement in service has rightly observed that the petitioner/workman was gainfully employed after his alleged termination in the year 2000 as he in his cross examination, admitted that his monthly expenses are between Rs.4000-5000/- per month. Thus, the findings by the Labour Court are based upon correct appreciation of the documentary evidence adduced by both the parties as well as the admissions suffered by important witnesses of both the parties during their cross examination. The workman has been suitably compensated by the Labour Court, therefore, the impugned award does not warrant any interference.

Resultantly, no ground is made out for exercise of extra ordinary writ jurisdiction under Article 226 Constitution of India.

Dismissed.

(MANOJ BAJAJ)
JUDGE

16.02.2023
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No