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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20845-2021 (O&M)
Date of Decision: 09.01.2023

JARNAIL SINGH

.. Petitioner

Vs.

PRESIDING OFFICER INDUSTRIAL TRIBUNAL LABOUR COURT
UT AT CHANDIGARH AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amit Kaith, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

Petitioner-Jarnail Singh has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of Certiorari to challenge the impugned award dated 13.08.2019 (Annexure P-3), only to the limited extent, whereby the Industrial Tribunal & Labour Court, Union Territory, Chandigarh while ordering his reinstatement has awarded 25% back wages instead of full wages.

Briefly, the facts leading to the writ petition are that:

Pursuant to the requisition sent by the Management to the Employment Exchange for filling up the vacant post of Drivers, petitioner's name was sponsored by Employment Exchange and he was appointed for a period of 89 days in December, 1998. He performed his duties with diligence and devotion till December, 2001 when his services were discontinued because of his involvement in a criminal case and according to the petitioner, he was given an assurance that after his acquittal, he would be taken back in service. Thereafter, the petitioner faced the trial and upon

his acquittal on 27.10.2009, he made a request to the Management for taking him back in service, but the Management failed to do so. The petitioner pleaded that his services were terminated illegally without complying with the mandatory provisions of Sections 25F, 25G, 25H and 25N, Industrial Disputes Act, 1947, as well as by ignoring the principles of 'last come first go', who had completed 240 days, therefore, his services could not have been terminated without holding any enquiry and still 50 posts are lying vacant with the Management. Further, it was claimed that some of the similarly situated drivers, whose services were terminated w.e.f. 30.05.2007 were reinstated pursuant to the decision of the Labour Court, Chandigarh and though the said decision was challenged by the Management before this Court, however, the writ petition was dismissed, but against the decision of writ Court, the Letters Patent Appeal preferred by the Department/Management is pending adjudication. Lastly, it was prayed that the workman be reinstated with continuity of service and full back wages along with interest @ 12% per annum.

The reference was contested by the Management and had filed the written statement raising the objection that the appointment of workman was only for a period of 89 days on contract basis on consolidated salary and no termination order of workman was ever passed. Denying the other averments contained in the demand notice/claim, it was prayed that the claim be dismissed.

Thereafter, the workman adduced evidence in respect of his case. While examining the pleadings and material on record, the Labour Court-Cum-Industrial Tribunal, U.T. Chandigarh proceeded to accept his claim and directed reinstatement of the petitioner with continuity in service

along with 25% back wages. Further, Management was directed to comply with the award within three months, failing which it was held that the workman would be entitled to 8% interest p.a. on the consequential benefits.

Aggrieved against the denial of full back wages, the petitioner has filed this writ petition.

Learned counsel has argued that once the Labour Court found the termination of the petitioner from the post of driver to be illegal and violative of the mandatory provisions of Section 25-F Industrial Disputes Act, 1947, therefore, it was imperative for the Industrial Tribunal to award full back wages to the petitioner. He submits that the Tribunal has only awarded 25% back wages, therefore, the interference is warranted by this Court.

During the course of hearing, it is not disputed by learned counsel that the petitioner had served the Department/Management w.e.f. December, 1998 till December, 2001 i.e. approximately for a period of three years, before he faced criminal trial which ended in his acquittal on 27.10.2009, and thereafter, he raised the industrial dispute.

The sole argument raised by learned counsel that since the termination of the petitioner was found to be bad in law, therefore, the workman is entitled to full back wages is without any merit, considering the facts and circumstances of this case. Merely because the workman has been ordered to be reinstated would not mean that the workman would be entitled to full back wages and in the present case, there is nothing on record to show that the petitioner ever pleaded that for all this period, he was nowhere gainfully employed, nor any such pleading is contained in the writ petition.

Mainly, the petitioner has relied upon the decision in respect of other

workmen/drivers, whereby they were reinstated with 50% back wages, but the said decision is yet to attain finality, as the letters patent appeal preferred by the Management is pending adjudication. Apart from it, the facts of the other cases relating to the reinstatement of the drivers is distinguishable, as in the present case, the petitioner was found to be involved in a criminal case and according to his own pleading on these legitimate grounds, his services were discontinued.

A perusal of the impugned award reveals that the Industrial Tribunal has examined the pleadings and evidence on record carefully and the impugned award does not suffer from any illegality.

No other argument has been raised.

Consequently, no interference by way of exercise of extraordinary writ jurisdiction is called for.

Dismissed.

09.01.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No