

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

(205)

LPA-1669-2019

Decided on: 24.02.2023

Vikram Singh

....Appellant(s)

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar and
another

.... Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Sanjiv Gutpa, Advocate and
Mr. Naveen Gupta, Advocate for the appellant(s).

Mr. Ankur Mittal, Addl. AG, Haryana with
Mr. Saurabh Mago, AAG, Haryana.

G.S. Sandhawalia, J.(Oral)

Present Letters Patent Appeal seeks consideration of the order of the learned Single Judge dated 17.01.2019 passed in **CWP-5206-2013 ‘Vikram Singh Vs. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar and another’**, wherein the workman who was working as part time Sweeper and had rendered 1½ years service, had been awarded ₹20,000/- as compensation by the Labour Court, while declining reinstatement as per its Award dated 06.08.2012 (Annexure P-4).

2. The learned Single Judge noticed that the declining of the reinstatement was justified while placing reliance upon various judgments of the Apex Court including a Full Bench judgment passed in **Municipal Council, Dina Nagar, Tehsil & District, Gurdaspur Vs. Presiding**

Officer, Labour Court, Gurdaspur and another, 2015 (1) RSJ 765 and enhanced the compensation to ₹1.25 lakhs, which was held to be just, adequate and reasonable. It was noticed that the employment was part-time and a cut had to be applied and therefore, directions had been issued to the department to pay the abovesaid amount to the workman within a period of 2 months from the date of receipt of a certified copy of the order.

3. The workman is in appeal against the said decision.

4. We are of the considered opinion that the matter as noticed by the learned Single Judge also is fully covered by the decision of the Full Bench passed in **Municipal Council, Dina Nagar (supra)**, whereby it was noticed as under:-

“Thus, the following principles are laid down:-

(i) Keeping in view the recognised power of the Industrial Tribunal to direct reinstatement on account of the violation of [Section 25-F](#) of the Act the same cannot be denied solely on the ground that appointments were made by public bodies against public posts and were not in accordance with the relevant statutory recruitment rules.

(ii) The settled position of law as has been sought to be addressed by this Court is that the provisions of [Section 25-F](#) being mandatory and on account of violation of the same, the retrenchment would be void ab initio as if it was never in operation and, therefore, the employee would be deemed to be continuing in service.

(iii) The right of reinstatement, however, is not an automatic right as such and while directing reinstatement, the Labour Court will have to take into consideration various aspects as to the nature of appointment, the availability of a post, the availability of work, whether the appointment was per se rules and the statutory provisions and the length of service and the delay in raising the industrial dispute before any award of reinstatement could follow in cases of persons appointed on a short term basis

and as daily wagers and who had not worked for long period but solely on the strength of having completed 240 days, would not per se be entitled for reinstatement as such, even though the retrenchment was void.

(iv)The said retrenchment being void would, however, not entitle the workman as such to qualify or claim a right for regularization and neither by an order of reinstatement, the permanency could be granted to the said employee and only he would be held to be entitled in continuous service on the same status as he was when his services were terminated.

(v)The employer would have a right to further terminate him in accordance with law by complying with the mandatory provisions and the employee having any grievance against such a termination could challenge the same in accordance with law.

(vi)The discretion of the Industrial Adjudicator has thus have to be respected and the said Adjudicator has to keep in mind the principles laid down by the Apex Court, as noticed above.

(vii)We do not subscribe to the view that the public authorities could claim total immunity and protection from the provisions of [Sections 25-F](#) and [25-B](#) of the Act by taking resort to and shielding themselves on account of the fact that the posts were not filled up in accordance with the relevant statutory recruitment rules and, therefore, per se the workman could not claim reinstatement.”

5. It is to be noticed that the term of employment as such was paltry to the extent that he had been appointed in May, 2008 and had served till 31.01.2010, but he had completed 240 days and, thus, got the benefit of statutory protection under Section 25-F of the Industrial Disputes Act, 1947. It is in such circumstances, the enhancement which has been done is justifiable and the amount also is appropriate, keeping in view the period of employment and the status of the employee.

6. The Apex Court in **Assistant Engineer, Rajasthan Development Corporation and another vs. Gitam Singh** 2013 (1) SCR 679, while noticing that service was of 08 months granted compensation of Rs.50,000/-. Similarly, in **Management, Hindustan Machine Tools Ltd. vs. Ghanshyam Sharma** 2018 (18) SCC 80, for a period of 01year, compensation of Rs.50,000/- has been awarded. In **K.V.Anil Mithra and another vs. Sree Sankaracharya University of Sanskrit and another** 2021 (4) S.C.T. 415, while noticing the service of the retrenched employee was of 04 years, lump sum monitory compensation of Rs.2,50,000/-was awarded to the workman.

7. We, thus, do not find any ground which would be available to the workman as such to enhance the compensation and ask for the relief of reinstatement in the peculiar facts and circumstances. The appeal is, accordingly, dismissed.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

24.02.2023
Naveen

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