

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

CWP-299-2016

Date of decision : 14.03.2023

Desh Pal

...Petitioner

Vs.

**The Presiding Officer Industrial Tribunal-
cum-Labour Court, Faridabad and another**

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Abha Rathore, Advocate for the petitioner.
Mr. Randeep Tanwar, Advocate for
Mr. Padamkant Dwivedi, Advocate for respondent No.2.

MANOJ BAJAJ, J.

Petitioner has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of certiorari to challenge the award dated 06.10.2015 (Annexure P-4) passed by respondent No.1, whereby the petitioner's claim for his reinstatement in service was denied, and alternatively, compensation amount of Rs.10,000/- has been awarded.

Learned counsel for the petitioner has argued that the petitioner worked as Caddy Master continuously for a long period of 17 years with the respondent-management w.e.f. 01.12.1994 to 20.12.2011 and on the issue of his illegal removal from service finding has been delivered by the Labour Court, Faridabad in favour of the petitioner, but despite that the relief of reinstatement has been declined. Learned counsel has argued that the Labour Court while relying upon the decision of Hon'ble Supreme Court in "B.S.N.L Vs. Bhurumal", 2014 (3) SCT 49 proceeded to award compensation of

Rs.10,000/- to the workman and the same is also disproportionate to the petitioner's length of the service, and last drawn monthly salary of Rs.5,174/-, therefore, the impugned award warrants interference by this Court.

On the other hand, prayer is opposed by the learned counsel appearing on behalf of respondent No.2, who has argued that the petitioner failed to adduce any evidence regarding his length of service and the management has also initiated action against the erring officers, who had engaged the services of the petitioner. He submits that the Labour Court has passed a valid award as the balance has been struck by awarding compensation to the workman and the relief of reinstatement in view of B.S.N.L's case (supra) can be denied to the workman, despite holding his removal from service as illegal. He prays that the writ petition be dismissed.

After hearing learned counsel and considering their submissions, this Court finds that as far as the length of service of the petitioner/workman is concerned, the Labour Court has given a categorical finding in para 13 of the impugned award that he worked for respondent No.2 w.e.f.1994-2011 and concededly respondent No.2 has not challenged these findings. During the course of hearing, it is not disputed by Ms. Rathore, learned counsel for the petitioner that at present the petitioner is about to attain the age of superannuation, therefore, she confines her prayer only for enhancing the compensation amount adequately.

A perusal of the impugned award shows that the Labour Court in its award dated 06.10.2015 while refusing the reinstatement to the workman awarded compensation by placing reliance upon the decision of Hon'ble Supreme Court in B.S.N.L's case (supra) and the para 26 of this citation reads

as under:-

“26. Applying the aforesaid principles, let us discuss the present case. We find that the respondent was working as a daily wager. Moreover, the termination took place more than 11 years ago. No doubt, as per the respondent he had worked for 15 years. However, the fact remains that no direct evidence for working 15 years has been furnished by the respondent and most of his documents are relatable to two years i.e. 2001 and 2002. Therefore, this fact becomes relevant when it comes to giving the relief. Judicial notice can also be taken of the fact that the need of lineman in the telephone department is drastically reduced after the advancement of technology. For all these reasons, we are of the view that ends of justice would be met by granting compensation in lieu of reinstatement. In Man Singh (supra) which was also a case of BSNL, this Court had granted compensation of Rs.2 Lakh to each of the workmen when they had worked for merely 240 days. Since the respondent herein worked for longer period, we are of the view that he should be paid a compensation of Rs. 3 lakhs. This compensation should be paid within 2 months failing which the respondent shall also be entitled to interest at the rate of 12% per annum from the date of this judgment. Award of the CGIT is modified to this extent. The appeal is disposed of in the above terms. The respondent shall also be entitled to the cost of Rs.15,000/- (Rupees Fifteen Thousand only) in this appeal.”

Considering the above decision, the length of the service of the petitioner as well as the nature of job performed by him, this Court deems it appropriate to enhance the compensation amount to Rs.3 lacs as it would meet the ends of justice. Consequently, with this modification, the writ petition is allowed only to this limited extent. Further, it is ordered that the amount of compensation be paid to the workman within a period of two months from the receipt of certified copy of this order and in case, the payment is not made in the stipulated period, it shall carry an interest @ 7% per annum.

(MANOJ BAJAJ)
JUDGE

14.03.2023

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