

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-3397 of 2016 (O&M)

Date of decision:01.03.2023

Sh. Sushil Kumar

..Petitioner

Versus

State of Punjab and others

..Respondents

CWP-19557 of 2021 (O&M)

Sushil Kumar

..Petitioner

Versus

Presiding Officer, Industrial Tribunal
and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gagneshwar Walia, Advocate
for the petitioner.

Mr. R.K.Kapoor, Addl.A.G., Punjab

ANIL KSHETARPAL, J(Oral)

1. Two connected writ petitions filed by the common petitioner have come up for the final disposal.

2. In Civil Writ Petition No.3397 of 2016, the petitioner prays for the issuance of a writ in the nature of mandamus to direct the respondents to mark his attendance by way of presence of the petitioner with effect from 15.12.2010 onwards and release all his benefits with continuity of service.

3. The relevant facts, in brief, are required to be noticed which are as follows:-

The petitioner claims that he was engaged as a Beldar on 10.10.1993 by the appointing authority. However, his services were wrongly

terminated on 19.11.1997, forcing the petitioner to file a case before the Labour Court which was allowed on 06.05.2002 directing the respondents to reinstate the petitioner. The correctness of the award passed by the Labour Court was challenged in a writ petition and thereafter, before the Supreme Court but the State did not succeed. Ultimately, he was permitted to join. Subsequently there was some dispute with regard to the payment of salary which forced him to file an application under Section 33(c)(2) of the Industrial Disputes Act, 1947 which was allowed on 01.09.2017 directing the respondents to pay the salary to the petitioner for the period he had worked for the department.

4. The respondents while contesting the Civil Writ Petition 3397 of 2016 have stated that the petitioner voluntarily abandoned his job with effect from 30.04.2009 and thereafter, he never came back and rejoined the service.

5. In these circumstances, the disputed questions of fact are required to be adjudicated. Hence, it is considered appropriate to relegate the petitioner to the alternative remedy.

6. Disposed of.

7. In Civil Writ Petition 19557 of 2021, the petitioner challenges the correctness of the award passed by the Labour Court under Section 33(c)(2) of the Industrial Dispute Act, 1947.

8. The Tribunal on appreciation of the evidence has found that as the petitioner was working for some period for the respondents and hence he is held entitled to the salary along with interest for the period he had worked. The operative part of the order reads as under:-

“In view of my findings on issue no.1, application of the

applicant is partly allowed. Applicant is entitled to salary for the period from 1.4.2007 to November, 2007, January 2008 to December, 2008 and then from January, 2009 to April, 2009 as he has not been paid salary for these months. So, he is also entitled to interest at the rate of 9% per annum on this amount from the date the salary has become due till the payment is made. Reader of this Tribunal is directed to forward three copies of this order to Assistant Labour Commissioner/Labour-cum-Conciliation Officer, Gurdaspur, as required under Section 33-C(4) of the I.D. Act read with Notification No.S.O.66/C.A.14/1947/S.17/2008 dated 1.10.2008. File be consigned to record room.”

9. This order has been passed on appreciation of the evidence. The learned counsel representing the petitioner failed to draw the attention of the court to any perversity or substantive error in the findings of fact.

10. In view of the aforesaid facts and discussion, Civil writ petition no.19557 of 2021 is dismissed.

11. All the pending miscellaneous applications, if any, are also disposed of.

March 01, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*