

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

(222)

LPA-1893-2017 (O&M)

Decided on: 09.02.2023

Palwal Cooperative Sugar Mills Ltd.

....Appellant(s)

Versus

Phool Singh and another

.... Respondent(s)

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

Present: Mr. R.N. Lohan, Advocate for the appellant(s).

Mr. S.K. Panwar, Advocate for respondent No.1.

G.S. Sandhawalia, J.(Oral)

Challenge in the present Letters Patent Appeal is to the order of the learned Single Judge dated 15.09.2017 passed in **CWP-2059-1998 ‘Phool Singh Vs. The Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Faridabad and another’**, wherein the learned Single Judge awarded compensation of ₹5 lakhs to the claimant-workman for the service of only one year.

2. The workman was appointed on 24.07.1990 and his services were dispensed with on 09.07.1991. The learned Single Judge came to the conclusion that the services had been dispensed with reference to the unsatisfactory work and the fact that the Management had employed another person on daily wage against the post of the Dispenser. It is not disputed that as per the appointment letter dated 24.07.1990 which has also been placed on record as (Annexure P-1), the appointment as such on the said post of Dispenser (Seasonal) was on probation for two crushing seasons. As per Clause 2 (b) during the probation period the Management had the right to terminate the services without assigning any reason by giving a week's notice. The needful was done vide order dated 09.07.1991

(Annexure P-2) and salary for one week was paid to the extent of ₹385/- by way of a cheque by way of giving benefit of the monetary aspect for the said period.

3. It was in such circumstances, the learned Labour Court while noticing that a letter had been sent to recall the claimant, who had joined on 01.11.1990 after the close of the production season of the mill, who had been paid off and as per the report his work was not satisfactory. He had then been issued cheque for ₹385/- and the claimant came in the office of the Management and mis-behaved with the Superintendent. The matter was taken upto the Managing Director and to the Sub-Divisional Magistrate and the Deputy Commissioner. Resultantly , keeping in view the fact that dispensing of the service was in terms of the appointment order, the issue whether the termination was legal and justified was held against him and the reference was declined on 19.04.1996 (Annexure P-4).

4. The learned Single Judge has failed to keep into consideration the period of service while granting a huge compensation of ₹5 lakhs. It is not disputed that a sum of ₹1 lakh has already been paid vide the interim orders and stands deposited with the Labour Court. The consistent view of the Apex Court is to grant compensation for short service, as has been noticed in **Haryana Urban Development Authority Vs. Om Pal, (2007) 5 SCC 742** wherein Rs.25,000/- was granted for the service of one year whereas in **Uttaranchal Forest Development Corporation Vs. M.C. Joshi, (2007) 9 SCC 353**, for a period of 2 years, a sum of Rs.75,000/- was granted. Similarly, in **Asst. Engineer, Rajasthan Development Corporation & another Vs. Gitam Singh, 2013 (1) SCR 679**, the said view was followed while noticing that the service was of 8 months and thus, compensation of Rs.50,000/- was granted. Similarly, in

Management, Hindustan Machine Tools Ltd. Vs. Ghanshyam Sharma, 2018 (18) SCC 80, for a period of one year, compensation of Rs.50,000/- had been granted. In **K.V.Anil Mithra & another Vs. Sree Sankaracharya University of Sanskrit & another, 2021 (4) SCT 415**, for a period of little over 4 years, amount awarded was Rs.2,50,000/- in lieu of the reinstatement and backwages of 50% which was granted and accordingly, modified.

5. Reliance can also be placed upon the Full Bench judgment passed in **Municipal Council, Dina Nagar, Tehsil & District, Gurdaspur Vs. Presiding Officer, Labour Court, Gurdaspur and another, 2015 (1) PLR 465**, wherein the principles as such has been laid down. Resultantly, we are of the considered opinion that ₹5 lakhs was an exorbitant amount that was awarded for the service period of one year.

6. Even otherwise counsel for the appellant has submitted that if on probation the services are dispensed, it would not amount bringing any such issue of statutory protection of retrenchment, keeping in view provisions made under Section 2 (oo) (bb) of the **Industrial Disputes Act, 1947**. Reliance has been placed upon **M. Venugopal Vs. Divisional Manager, LIC of India, Machilipatnam, Andhra, (1994) 2 SCC 323**.

Relevant portion of the said judgment reads as under:-

“9. Any such termination, even if the provisions of the [Industrial Disputes Act](#) were applicable in the case of the appellant, shall not be deemed to be "retrenchment" within the meaning of [Section 2\(oo\)](#), having been covered by exception (bb). Before the introduction of clause (bb) in [Section 2\(oo\)](#), there were only three exceptions so far as termination of the service of the workman was concerned, which had been excluded from the ambit of retrenchment (a) voluntary retirement; (b) retirement on reaching the age of superannuation; and (c) on ground of continued ill-health. This Court from time to time held that the

definition of "retrenchment" being very wide and comprehensive in nature shall cover, within its ambit termination of service in any manner and for any reason, otherwise than as a punishment inflicted by way of disciplinary action. The result was that even discharge simpliciter was held to fall within the purview of the definition of "retrenchment". ([State Bank of India v. N. Sundara Money](#)', [Santosh Gupta v. State Bank of Patiala](#)2.) Now with introduction of one more exception to [Section 2\(oo\)](#), under clause (bb) the legislature has excluded from the purview of "retrenchment" (i) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry; (ii) such contract being terminated under a stipulation in that behalf contained in contract of employment. It need not be impressed that if in the contract of employment no such stipulation is provided or prescribed, then such contract shall not be covered by clause (bb) of [Section 2\(oo\)](#). In the present case, the termination of service of the appellant is as a result of the contract of employment having been terminated under the stipulations specifically provided under Regulation 14 and the order of the appointment of the appellant. In this background, the non-compliance of the requirement of [Section 25-F](#) shall not vitiate or nullify the order of termination of the appellant."

7. Resultantly, keeping in view the above, we allow the appeal and set aside the order of the learned Single Judge and dismiss the writ petition. However, a condition is imposed that the amount which has been deposited with the Labour Court will be the entitlement of the workman, who is free to withdraw the same.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

09.02.2023
Naveen

Whether speaking/reasoned :	Yes
Whether Reportable :	No