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CMs-711-712-LPA-2018 in/and
LPA-285-2018 (O&M)
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CMs-711-712-LPA-2018 in/and
LPA-285-2018 (O&M)
Date of Decision: 02.03.2023

Gurjit Singh

.....Appellant

Vs.

Industrial Tribunal, Patiala and another

.....Respondents

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

Present: None for the appellant.

Mr. Neeraj Sharma, Advocate,
for respondent No. 2.

HARPREET KAUR JEEWAN, J.

CMs-711-712-LPA-2018

By these applications, the applicant-appellant seeks condonation of delay of 220 days in re-filing and 299 days in filing the appeal.

In view of the averments made in the applications, which are duly supported by affidavits of the applicant-appellant, sufficient cause is made out to condone the delay.

Consequently, the applications are allowed and the delay of 220 days in re-filing and 299 days in filing the appeal is hereby condoned.

LPA-285-2018 (O&M)

Consideration in the present Letters Patent Appeal filed by the appellant (hereinafter referred to as the 'workman') is to the order of the learned Single Judge in CWP-24987-2012, titled **Gurjit Singh vs. Industrial Tribunal, Patiala and another** whereby the learned Single

Judge has only modified the Award dated 03.04.2012 (Annexure P-1) passed by the Industrial Tribunal, Patiala (hereinafter referred to as the 'Tribunal'), by way of enhancing the compensation from Rs. 15,000/- to Rs. 2,00,000/- but declined the relief of reinstatement of the appellant-workman.

2. The brief facts of the case are that appellant workman joined the services of respondent No. 2 as daily wage worker on 01.05.1995 and his services were terminated on 06.12.1999 without issuing any notice and without payment of retrenchment compensation. After receiving a reference of the industrial dispute raised by the workman, the Tribunal observed that the witness of respondent No. 2 (hereinafter referred to as the 'employer') has admitted the joining of the workman on 01.05.1995. The employer had taken up a plea before the Tribunal that the workman has himself abandoned the job. The Tribunal observed that it was the duty of the respondent to issue a letter to the workman to resume duty. However, no such notice was sent. No charge-sheet was issued to the workman and even no enquiry was conducted. The Tribunal also observed that the workman had completed 240 days in the preceding 12 months before the date of his termination. The muster rolls having the attendance of the workman W-3 to W-10 which were produced by the employer were considered by the Tribunal and it was observed that he had worked for 240 days in 12 months preceding on 06.12.1999. Observing that the termination of the workman was in violation of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act of 1947'), as such, relying upon the decision of the Hon'ble Apex Court in **Secretary, State of Karnataka vs. Uma Devi and others** 2006 (2) LLJ Page 722 (SC)

and Haryana State Electronics Development Corporation Ltd. Vs.

Mamni 2006 (2) LLJ page 744 (SC), the workman was awarded compensation of Rs. 15,000/- for his retrenchment without following the legal procedures prescribed under the Act of 1947.

3. The workman assailed the finding of the Tribunal by way of filing the CWP-24987-2012 and sought a relief of reinstatement with all consequential benefits by setting aside the Award passed by the Tribunal.

4. The learned Single Judge observed that the respondent-employer has contested the claim of the workman alleging that he has served as a daily wage workman for 4½ year only. His services were terminated on 06.12.1999 and at this juncture, it is not appropriate to direct his reinstatement. Considering the contentions raised by both the parties, the learned Single Judge modified the Award by way of enhancing the compensation from Rs. 15,000/- to Rs. 2,00,000/-.

5. When the case was fixed for arguments, none appeared for the appellant-workman. Even on the previous date on 31.10.2019, none appeared for the appellant.

6. We have considered the contentions raised in the appeal. The appellant has sought reinstatement with all consequential benefits only on the ground that the appellant has been out of job for no fault of his part. His termination is illegal. The compensation awarded is meager which is insufficient to support his family and to sustain himself. Since the respondents have raised baseless allegations that the workman has himself abandoned the job which they failed to prove, as such, the appellant is entitled for reinstatement.

7. We have considered the said submissions and perused the paper-book. As per the averments of the appellant, he has worked for 4½ year with effect from 01.05.1995 to 06.12.1999 on daily wage basis. The learned Single Judge while upholding the findings arrived at by the Tribunal held that the termination of the workman is without following the procedure prescribed under the Act of 1947.

8. We find no illegality in the said findings. The employer had failed to prove that the workman had himself abandoned the job. The statement of the workman has been rightly believed by the Tribunal as well as by the learned Single Judge that he was terminated. There is nothing on record that the provisions of Section of 25-F of the Act were complied with at the time of termination of the services of the appellant. Section 25-F of the Act of 1947 provides the conditions precedent of retrenchment of a workman as per which no workman shall be retrenched by an employer until he has been paid the benefits referred in the said Section. The said Section reads as under:-

“25F. Conditions precedent to retrenchment of workmen.-

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until--

(a) the workman has been given one month' s notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government [or such authority as may be specified by the appropriate Government by notification in the Official Gazette].”

9. Considering the fact that the appellant was a daily wage employee and he has worked only for 4½ years and a lot of time has even passed thereafter. None is appearing on his behalf to contest the present appeal which indicates that he has lost interest in the present litigation or he has been suitably employed somewhere else. So keeping in view the totality of these circumstances and the ratio of the findings arrived at by the Hon’ble Full Bench in **Municipal Council, Dina Nagar, Tehsil & District Gurdaspur vs. Presiding Officer, Labour Court, Gurdaspur and another** 2014 (4) SCT 514, we are of the considered opinion that the appellant is not entitled for reinstatement with full back wages and he has been rightly awarded the compensation amounting to Rs. 2,00,000/- by the learned Single Judge.

10. No interference is called for in the findings arrived at by the learned Single Judge.

11. With regard to the quantum of compensation, we take reference from the decision of Hon’ble Apex Court in **Management, Hindustan Machine Tools Ltd. vs. Ghanshyam Sharma** 2018 (18) SCC 80, wherein for a period of 01 year, compensation of Rs. 50,000/- has been awarded and 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 for a period of 04 years, lump sum monitory compensation of Rs. 2,50,000/- was awarded to the workman.

12. Consequently, the appeal is dismissed.

Pending miscellaneous applications, if any, also stand disposed
of.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

March 02, 2023
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Whether Speaking	Yes
Whether Reportable	No