IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 60 of 2018

Decided on: 18.12.2024

Hem Singh … Petitioner

Versus

Executive Engineer (Electrical Division),
Himachal Pradesh … Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?[1]

For the petitioner : Mr. Vandana Thakur, Advocate.

For the respondent : None.

Ajay Mohan Goel, Judge *(Oral)*

By way of this writ petition, the petitioner has prayed for the following reliefs:-

> *"i) That a writ in the nature of certiorari may very kindly be issued thereby quashing and setting aside the impugned award to the extent reinstatement with all consequential benefits has not been granted to the petitioner.*
>
> *ii) That a writ in the nature of mandamus may kindly be issued thereby directing the respondent to reinstate the petitioner with full back wages, continuity and seniority and all other consequential benefits in favour of the petitioner."*

2. Brief facts necessary for the adjudication of this writ petition are that in an industrial dispute raised by the petitioner, the

[1] *Whether reporters of the local papers may be allowed to see the judgment?*

2024:HHC:15037

appropriate Government made the following Reference to the learned Labour Court for adjudication:

> *"Whether the termination of the services of Shri Hem Singh S/O Shri Bhutoo Ram, resident of Village Kaloga, PO Mandap, Tehsil Sarkaghat, Distt. Mandi, H.P. by The Executive Engineer, Himachal Pradesh State Electricity Board, Division Dharampur, Distt. Mandi, (HP) w.e.f. 21.7.1998 without complying the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above aggrieved workman is entitled to from the above employer?"*

3. The grievance of the petitioner was that after his engagement as a Beldar on daily wage basis in the year 1993, his services were terminated w.e.f. 21.07.1998, without following the mandatory provisions envisaged under the Industrial Disputes Act.

4. On the basis of the pleadings of the parties, the learned Labour Court framed the following Issues:-

> "*1. Whether the termination of the services of the petitioner by the respondent w.e.f. 21.7.1998 is/was illegal and unjustified as alleged? OPP*
>
> *2. Whether the petitioner has a cause of action? OP*
>
> *3. Whether the claim petition is not maintainable in the present form? OPR*

2024:HHC:15037

4. Relief."

5. The Issues so framed, on the basis of evidence led by the parties were decided by learned Labour Court as under:-

Issue No. 1	:	Discussed
Issue No. 2	:	Discussed
Issue No. 3	:	No.
Relief	:	Petition is partly allowed awarding compensation of Rs. 70,000/- per operative part of the award.

6. The Reference was thus answered partly by awarding compensation of Rs.70,000/- in favour of the petitioner.

7. The award has been challenged by the petitioner and not by the employer.

8. Learned Counsel for the petitioner has argued that the award in issue is bad for the reason that when learned Labour Court held that the services of the petitioner were terminated in violation of the provisions of the Industrial Disputes Act, denial of reinstatement to the petitioner and award of an amount of Rs.70,000/- in lieu of compensation is bad. She submitted that the impugned award therefore be set aside to the effect it refuses reinstatement to the petitioner and a direction be issued to the respondents to re-engage the petitioner with all consequential benefits or to enhance the compensation.

2024:HHC:15037

9. I have heard learned Counsel for the petitioner and carefully gone through the impugned award as well as other documents appended with the writ petition.

10. In terms of the impugned award, the finding of fact returned by learned Labour Court is that as from the date of his initial engagement till his disengagement in the year 1998, the petitioner had only worked for only 133 days. Besides this, it is also recorded in the findings that the industrial dispute was raised by issuance of a demand notice after a period of six years as from the date when the cause accrued in favour of the petitioner. In these circumstances, this Court is the considered view that the award passed by the learned Labour Court in terms whereof reinstatement has been refused to the petitioner, calls for no interference. The petitioner ought to have been vigilant of his rights and he should have raised the industrial dispute at the earliest. However, it took him six years to raise the industrial dispute. Why so? Learned Counsel for the petitioner could not successfully demonstrate before this Court.

11. In addition, finding returned by the learned Labour Court that the petitioner was engaged by the respondent only for a period of two years and during this period of two years, the petitioner worked for only 133 days as per the man-day's chart

2024:HHC:15037

placed on record could not be controverted by the petitioner. In these circumstances, the compensation of Rs. 70,000/- is also just and fair and the same calls for no enhancement. The petitioner has been justly compensated by the learned Labour Court by awarding an amount of Rs.70,000/- in view of the fact that before his disengagement he had worked for only 133 days and in the backdrop of the industrial dispute having been raised after an unexplained delay of six years.

Accordingly, this writ petition, being devoid of merit, is dismissed. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

December 18, 2024
(*narender*)