

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-11437-1998
Decided on : 01.04.2024

STATE OF PUNJAB

. . . Petitioner(s)

Versus

HARBHAJAN SINGH

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Prabhdeep Singh Dhaliwal, Assistant AG, Punjab.

Mr. Sudeep Mahajan, Advocate with
Ms. Saachi Mahajan, Advocate
for respondent-workman.

SANJAY VASHISTH, J. (Oral)

1. Present petition has been filed by State of Punjab challenging the award dated 22.01.1998 (Annexure P-1) passed by Learned Labour Court, Jalandhar, whereby Reference No. 101 of 1993 under Section 10(1)(c) of the Industrial Disputes Act, 1947, has been answered in favour of the workman.
2. Learned Labour Court observed that respondent-Harbhajan Singh (workman) is entitled for reinstatement as driver with continuity of service along with full back-wages and all other service benefits. Within one month of publication of the award, workman was to report back for joining the duty. On assailing the award at the instance of State of Punjab (petitioner), notice was issued to the respondent-workman vide order dated 24.07.1998 but as per the order, no stay was granted against the direction of reinstatement in service and reporting back for joining in service within a period of one month.

In the said backdrop, on 08.12.2016, Daily Lok Adalat of this Court observed as under:

*“DAILY LOK ADALAT**BENCH NO.3*

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*CWP-11437-1998**STATE OF PUNJAB V/S HARBHAJAN SINGH.**Present: Ms. Priyanka Sadar, AAG Punjab.*******

The Presiding Officer, Labour Court, Jalandhar answered the reference in favour of the workman holding that he shall report for duty within one month of the publication of the award and that he shall be entitled to full back wages and all other service benefits available to him. The award has been challenged at the instance of the State of Punjab through the. Chief Agricultural Officer, Hoshiarpur. The writ petition was admitted but no stay was granted.

Counsel seeks time to have instructions as apparently the workman must have been taken back in service and paid the back wages as directed by the Labour Court.

Adjourned to 01.02.2017.

*(G.C. GARG)
PRESIDENT*

*(N.K. KAPOOR)
MEMBER*

December 08, 2016”

3. On 08.02.2017, learned Sate counsel informed this Court that the award has not been implemented till date.
4. I have re-examined the record and findings recorded in the impugned award, wherein it has been observed that workman has completed 240 days of service and without giving one month notice or pay in lieu of notice period as retrenchment compensation, he was terminated from service, which amounts to violation of provisions of Section 25-F of the Act.

Finding recorded in Para Nos.13, 14 and 15 of the impugned award is reproduced hereunder:

“13. A per MI, the workman was appointed on 9.8. 1990 on daily wages as driver and with effect from L.7. 1992, he stopped coming to the office because of regular appointment of a driver. The witness further stated that the workman had put in only 132 days of service with the respondent. On the other hand the stand of the respondent in the written statement was that on the appointment of the regular driver, the services of the workman were no longer required and he was not allowed to continue as driver. The stand of MWI, therefore, is contrary to the pleading in the written statement. WI has deposed that Ex, W-I dated 1.7.1992 was handed over to him and he was told that on the appointment of regular driver, he was

being relieved from duty w.e. f. 1.7.1992. The plea of MWI that the workman himself stopped coming to the office, therefore, was correct.

14. *From the perusal of the documentary evidence produced by parties, it stands proved that the workman had put in more than 240 days of service within 12 months prior to 1.7.1992. Even vide Ex.M-21, the workman had put in 274 days work from Jan., 1991 to Dec., 1991. Vide Ex.M-22, he had put in 132 days of service from Jan., 1992 to June, 1992. It was, therefore, wrong on the part of MWI to say that the workman had put in only 132 days total service. Thus provisions of section 25-F of the I.D. Act are attracted to this case as per which the respondents were required to give one month notice or pay in lieu of notice to the workman besides retrenchment compensation. MWI has admitted that no such notice and retrenchment compensation were given to the workman, Thus provisions of section 25-F ibid were violated by the respondents and hence termination from service of the workman was not in order. This issue is decided against the respondent and in favour of the workman.*

15. *In the result, I accept this reference and order the reinstatement of the workman into service of the respondent as driver with continuity of service. The workman has deposed that he remained unemployed after his termination from service. The respondents have not produced any evidence that he was gainfully employed. Therefore, I award full back wages and all other service benefits available to him. He shall report for duty within one month after the publication of the award. The respondents shall payback wages to the workman within one month of the publication of the award failing which to pay the same with interest at 12% p. a. w.e.f. date of termination.”*

5. Otherwise also, award was passed way-back on 22.01.1998 and without any stay order, this petition is pending adjudication before this Court for the last more than 25 years.

6. The finding of fact recorded by learned Labour Court does not appear to be warranting any interference without any substantial reason, therefore, by affirming the award, present writ petition stands dismissed.

7. Accordingly, writ petition stands dismissed.

(SANJAY VASHISTH)
JUDGE

April 01, 2024
kvn

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