



CWP No.14076 of 1997

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**101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP No.14076 of 1997****Date of Decision: 12.12.2024****Punjab Scooters Limited, Nabha, District Patiala****....Petitioner****VS.****Presiding Officer Labour Court, Patiala and another****....Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Karan Nehra and Mr. Harvinder Singh, Advocates
for the petitioner
Mr. Deepak Aggarwal, Advocate
for the respondent-workman

*********JAGMOHAN BANSAL, J. (ORAL)**

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of award dated 28.02.1997 (Annexure P-1) whereby workman was ordered to be reinstated with back wages.

2. The petitioner is a public limited company and respondent No. 2 was its workman who joined the petitioner-organization on 16.6.1977. He came to be terminated on 27.12.1991. On his application, matter came to be referred to Labour Court which vide impugned award dated 28.02.1997 ordered to reinstate him with back wages. In the impugned award, it is noted that the workman was running a vegetable shop for his livelihood, thus, he was gainfully employed and cannot be paid back wages.



2. Mr. Karan Nehra, Advocate submits that a period of more than three decades from the date of termination of workman has passed away. The workman attained the age of superannuation in February' 2006, thus, question of reinstatement does not survive. He was paid the last drawn salary till the date of his superannuation, thus, mandate of Section 17B of the Industrial Disputes Act, 1947 (in short " 1947 Act") stands complied with. He was also paid gratuity and leave encashment during the interregnum. The Management is further willing to pay a sum of Rs. 6,00,000/- as lump sum compensation.

4. *Per contra*, Mr. Deepak Aggarwal, Advocate submits that workman was wrongly and in violation of mandate of Section 25B read with Section 25F of 1947 Act terminated, thus, Labour Court has rightly ordered to reinstate him. There is no infirmity in the impugned order warranting interference by this Court.

5. I have heard counsel for the parties and perused the record with their able assistance.

6. It is correct that scope of interference against the order of Labour Court while exercising power under Articles 226/227 of the Constitution of India is very limited, however, instant petition cannot be rejected on the said ground especially when it is pending before this Court since 1997.

7. The workman attained age of superannuation in February' 2006, thus, question of reinstatement does not survive. The question which survives for adjudication by this Court is the quantum of compensation to be paid to the workman.



8. The workman was terminated in December’ 1991 and his last drawn salary was Rs. 2000/- per month. The impugned award was passed in February’1997. A period of more than three decades from the date of termination and almost three decades from the date of award has passed away. The workman till the date of superannuation was paid last drawn salary in terms of Section 17B of 1947 Act. He was also paid gratuity and leave encashment. He has right to collect Employees Provident Fund from Provident Fund authorities. Had he not been terminated, he must have served for 15 years more. As per his last drawn salary, he would have earned Rs. 3,60,000/-. He had received said amount without work. He claims that as per policy of the Management, his colleagues are getting pension @ Rs. 7500/- per month.

9. Considering the efflux of time, last drawn salary, compliance of Section 17B of 1947 Act on the part of Management, payment of gratuity & leave encashment, entitlement to Employees Provident Fund and loss of opportunity to get pension, this Court finds it appropriate to direct the petitioner-Management to pay a sum of Rs. 7.5 lakh to respondent-workman within one month from today failing which it would be liable to pay interest @ 9% per annum. The workman is free to collect his Employees Provident Fund from the Provident Fund authorities.

10. Disposed of in the above terms.

(JAGMOHAN BANSAL)
JUDGE

12.12.2024
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Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	