

Neutral Citation No:2024:PHHC:045860
CWP-19757 of 1998 and
CWP-2345 of 1999 1
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

207 CWP-19757 of 1998

SURINDER SINGH Petitioner

Versus

THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, ROHTAK AND ORS
....Respondents

207(2) CWP-2345 of 1999

STATE OF HARYANAPetitioner

Versus

SURINDER SINGH AND ANRRespondents

Date of Decision: 04.04.2024

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Rajiv Sharma, Advocate for the petitioner.

Mr. Satish Singla, AAG, Haryana.

SANJAY VASHISTH, J.(Oral)

1. By way of this common order, both the aforementioned writ petitions are being disposed of.

The relevant facts are being extracted from CWP-19757 of 1998.

2. Petitioner-Surinder Singh, has filed the present writ petition for setting aside of the impugned award dated 17.07.1998 (Annexure P-4) passed by learned Industrial Tribunal-cum-Labour Court, Rohtak, whereby reference No. 310 of 1994, filed under Section 10 (1) (C) of the Industrial Disputes Act, 1947 (for short, ‘the Act of 1947’), has been partly answered in his favour.

3. Pleaded case of the workman before learned Tribunal was that vide order dated 18.09.1992, he was appointed as Driver with

the Public Health Sub Division No.3, Rohtak-Management and remained in service uptill 10.07.1993. Petitioner-workman also pleaded that he had completed 240 working days in the office of the Management during the preceding one year of his termination, therefore, he could not be removed from the service without making payment of retrenchment compensation and also making compliance of the provisions of the Act of 1947.

4. In the written statement, the Management pleaded that the workman was engaged on daily wages and worked as driver against the stop-gap vacancy of Vehicle driver from 18.09.1992 to 30.11.1992, 01.01.1993 to 31.01.1993, 01.02.1993 to 28.02.1993 and 01.03.1993 to 30.06.1993 in different sub divisions at Rohtak.

However, while dealing with the evidence and other material available on record, learned Tribunal reached to the conclusion that the order of termination of workman from service is neither justified nor in accordance with the provisions of the Act of 1947.

5. However, by recording a fact that during this period, the post has been filled through regular recruitment and despite disclosing of this fact during the recording of the evidence of Dalip Singh (MW1), no effort was made by the workman to file replication to challenge the regular appointment to give him priority over the new recruitment, the direction for reinstatement on the previous post was not passed, rather the workman was held entitled to receive 67% of back wages from the period 11.07.1993 to 23.05.1994.

6. For the sake of convenience, relevant findings recorded by learned Tribunal are reproduced herebelow:

“17. There is therefore no merit in the plea of the learned ADA for the management that no illegality has been committed by the management in relieving the workman from service on 10-7-93 due to the intentional absence of the workman from 1-7-93 to 10-7-93 without any intimation.

18. For the foregoing reasons it is abundantly clear that the management has committed illegality in terminating the service of the workman vide its letter dated 10-7-93 Ex.W-1 read with its letter dated 15-7-93 copy Ex.MW-1/2.

19. For the foregoing reasons I hold that the termination of workman from service is neither justified nor in order.

20. As regards the relief there is plea of the management in its written statement that regular person has joined against the vacancy in question with effect from 24-5-94 and in this position has not been rebutted by the workman either by filing replication in his statement as WW-1, and in this situation the testimony to the same effect of MW-1 Dalip Singh inspires confidence. According to the testimony of this witness MW-1 no Dalip Singh now/such vacancy exist on which the workman had been working under the management. In this situation the workman is no longer entitled to reinstatement on his previous post, but he is entitled to get 67% back wages for the period 11-7-93 to 23-5-94.

21. This issue is therefore decided accordingly.

Relief,

22. As a net result of my findings on issue no.1 above the reference is accepted partly and it is held that the workman is not entitled to his reinstatement on his previous post but he is entitled to receive from the management 67% of his back wages for the period 11-7-93 to 23-5-94. The reference is answered and returned accordingly.”

7. However, **this Court deems it appropriate that in lieu of denying the benefit of reinstatement, workman-Surinder Singh, deserves lump sum compensation amount.**

Therefore, the impugned award dated 17.07.1998 (Annexure P-4) is modified to the extent that, petitioner-Surinder Singh(workman) would be entitled for a lump sum amount of

financial claims accruing to him, by virtue of the award in question, to be paid by the respondent(s)-Management, on or before 03.06.2024.

In case of default/non-compliance to pay said amount within the prescribed time period, respondent(s)-Management shall be liable to pay interest @ 6% per annum over the amount of Rs.1,00,000/- with effect from the date of the judgment till the date of actual payment.

8. With the aforesaid modification made in the impugned award, the present petition i.e. **CWP-19575 of 1998 stands disposed of.**

9. This Court is fully convinced by the reasoning given in the impugned award. Nothing calls for any kind of interference in the well reasoned findings given by the Tribunal. Therefore, **CWP-2345 of 1999, titled as ‘State of Haryana Vs. Surinder Singh and anr’, is dismissed.**

April 04, 2024
rashmi

[SANJAY VASHISTH]
JUDGE

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no