

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CWP-5933-2000 (O&M)
Date of Decision : 19.11.2024

STATE OF HARYANA AND OTHERS PETITIONERS

V/S

KANWAR SINGH AND ANOTHER RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present :- Ms. Harsh Rekha Kapoor, AAG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

1. As per office report, respondent No.1 stands served. Ms. Harsh Rekha Kapoor submits that as per her instructions, he has retired.

2. It appears that with efflux of time, respondent No.1 has lost his interest to pursue the matter. The matter is pending before this Court since 2000 and cannot be kept pending for indefinite period.

3. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 15.12.1996 (Annexure P-3) whereby Labour Court held the respondent entitled to back wages for the period from 01.06.1989 to 31.03.1990. The Labour Court has further awarded increment and bonus to the tune of Rs.11,200/- and Rs.8,260/-. Consequently, a sum of Rs.59,560/- has been awarded to the respondent. The Labour Court has

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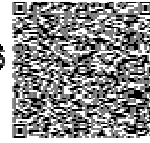


passed aforesaid order under Section 33-C (2) of Industrial Disputes Act, 1947 (for short 'ID Act').

4. The respondent was appointed as Conductor on 01.09.1981. He remained absent from duty w.e.f. 14.08.1988 to 25.09.1989. During the said period, he joined Delhi Police on 22.08.1988. He came to be terminated by Delhi Police vide order dated 26.05.1989. He reported back to petitioner on 31.05.1989. The petitioner initiated disciplinary proceedings against him. He was allowed to join back on 01.04.1990. The respondent in 1995 filed an application before the Labour Court under Section 33-C (2) of ID Act claiming back wages for the period from 31.05.1989 to 31.03.1990 i.e. the period from the date of his reporting for rejoining and actual rejoining. He also claimed increment for the said period and bonus. The Labour Court by impugned order has awarded back wages, bonus and increment for the period in question.

5. Ms. Harsh Rekha Kapoor submits that Labour Court had no authority to award increments and bonus in exercise of power conferred under Section 33-C (2) of ID Act. The said power is in the form of execution and cannot be exercised to determine rights and liabilities. The application before Labour Court was barred by limitation.

6. The respondent filed an application under Section 33-C (2) of ID Act after 05 years from the date of his actual joining. No limitation period has been prescribed under Section 33-C (2) of ID Act, thus, contention of petitioner that application was barred by limitation is not maintainable. In any case, after a period of three decades, it would not be justified to set aside the impugned order on the ground of delay and



laches especially when no limitation period is prescribed under Section 33-C (2) of ID Act. This Court is not oblivious of the fact that in the absence of specific prescribed period, application should be filed within reasonable period.

7. The proceedings under Section 33-C (2) of ID Act are sort of execution proceedings. The Labour Court cannot determine rights and liabilities while exercising power under the said Section. The impugned order has determined entitlement of bonus and increments without any basis and evidence of respondent. The question of bonus and increments are disputed questions especially when during the said period, the workman had not actually worked. The workman attempted to rejoin and despite directions of labour authority, he was not permitted to join. The petitioner permitted him to rejoin on 01.04.1990. The respondent was entitled to wages for the period in question, thus, this Court does not find it appropriate to set aside direction of Labour Court to the extent of wages for the period in question. Accordingly, the impugned order is set aside to the extent of direction to pay bonus and increments.

8. Disposed of.

9. Pending miscellaneous application (s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

19.11.2024

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