

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

423A

**CWP-7962-1998 (O&M)
Date of decision:09.11.2017**

Jaswinder Singh

....Petitioner

Versus

Presiding Officer, Labour Court, Patiala and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Ms. Jasvir Kaur, Advocate for the petitioner.

None for the respondents.

P.B. BAJANTHRI, J. (ORAL)

Matter called twice but none appears on behalf of the respondents. Since matter is of the year 1998. Hence matter is taken up for hearing.

2. In the instant writ petition, petitioner has challenged the portion of the award dated 18.12.1996 (Annexure P2) to the extent of denial of back wages.

3. Petitioner is stated to have been appointed as a daily wager in the year 1988. His services were terminated on 24.09.1993. He raised an industrial dispute. The labour court while deciding the reference number 15/95 on 18.12.1996 ordered that petitioner is entitled to reinstatement with

continuity of service but without back wages. Hence the present petition.

4. Learned counsel for the petitioner submitted that reasons assigned by the labour court in denying back wages is that petitioner had admitted that he has been meeting his expenses by doing labour work. Thus, inference has been drawn to the extent that petitioner is gainfully employed after his retrenchment. Learned counsel for the petitioner submitted that for the purpose of livelihood petitioner has to do some work. He cannot sit idle merely waiting for the decision of the dispute which was pending consideration before the labour court. It was further submitted that during pendency of this dispute before the labour court, he met with an accident on 21.02.1996. Consequently, he is disabled to the extent of 55%. In view of these facts and circumstances, petitioner is entitled for full backwages with reference to the fact that once the labour court has held that there is violation of Section 25F of the I.D.Act.

5. There is no representation on behalf of the respondents.

6. Heard learned counsel for the petitioner.

7. The labour court for the purpose of denial of back wages relied on the fact that petitioner has been meeting his expenses by doing labour work and thus, he is gainfully employed after his retrenchment. It is to be noted that for the purpose of livelihood one has to discharge some duties to earn and to lead life. Therefore, petitioner engaging himself for the purpose of earning some money as a Labour worker. Infact, the labour court should have appreciated the fair submission of the petitioner to the extent that he is gainfully employed during his retrenchment to the extent of discharging the

duties of the labour work.

8. In view of these facts and circumstances, labour court has erred in not granting back wages to the petitioner. Accordingly, Award dated 18.12.1996 is modified to the extent of without back wages to that of petitioner is entitled to 50% back wages from the date of termination till reinstatement. The same shall be calculated and disbursed to the petitioner by the respondent-management within a period of 4 weeks from today.

9. Accordingly, CWP stands allowed.

09.11.2017

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No