



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

210-2

CWP-17330-2004**Decided on : 09.05.2024**

Health & Family Welfare Department, Punjab,
Chandigarh and others

... Petitioner(s)

Versus

Gurjit Singh and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Amit Chaudhary, DAG, Punjab.

Mr. Suvir Sidhu, Advocate and
Mr. Harlove Singh Rajput, Advocate
for respondent No.1.

SANJAY VASHISTH, J. (Oral)

1. Petitioners i.e. (i) Health & Family Department, Punjab, Chandigarh through Director Health Services; (ii) Civil Surgeon, Civil Hospital, Mansa, and; (iii) Senior Medical Officer, Primary Health Centre (PHC) Budhlada, District Mansa, being Management, have filed the present writ petition, challenging the award dated 18.05.2004 (Annexure P-5), passed by respondent No.2 – learned Presiding Officer, Labour Court, Bathinda, whereby, Ref. No.1/2002, under Section 10(1)(C) of the Industrial Disputes Act, 1947 (in short, ‘ID Act’), has been answered in favour of respondent No.1 – Gurjit Singh (workman).

2. Pleaded case of the workman is that he was employed with the Management as Class-IV employee w.e.f. 13.03.1995, and was terminated on 10.06.1995. He was drawing the wages of Rs.1750/- per month. His services were terminated without any notice, charge-sheet, notice pay or retrenchment notice etc. Even after his termination, the other workmen, who



were junior to him, namely; Sukhchain Singh, Kuljit Kaur and Major Singh, are still in service of the Management. Thus, there being violation of Sections 25-G and 25-H of the ID Act, and termination of his services were prayed to be illegal. Workman prayed for reinstatement in service.

3. On the other hand, Management pleaded that the named workman services were terminated as per the rules and regulations of the Health Department. He was appointed as 'Class-IV' employee purely on temporary basis, for a period of 89 days in the pay-scale of Rs.750-1350/- p.m. Management admitted that no notice, charge-sheet, notice pay or retrenchment notice was ever served to the workman. Thus, while defending the action of termination, Management relied upon the order of appointment, by stating that it was on temporary basis since its beginning.

Learned Labour Court, vide order dated 29.08.2002, framed the following issues:-

- “1. Whether services of workman have been validly terminated ?*
- 2. Whether reference is not maintainable ?*
- 3. Relief.”*

4. For the purpose of issue No.1 – Dr. Shard Kumar, appeared as MW/1 and proved the appointment of the workman on temporary basis by producing the appointment letter as Ex.M1, and the joining report dated 14.03.1995 submitted at Budhlada, as Ex.M/2. The termination letter dated 10.06.1995 (Ex.M3) was also proved by the said witnesses.

5. On the other side, workman himself appeared as WW/1 and produced another witness – Harbans Kaur as WW/2, who proved the list of Class-IV employees (Ex.W/2) showing the date of appointment of said



employees, and stated that said employees are still in service. Not only this, services of such workmen, have already been regularized as per the order of the Punjab Government. Said fact has been admitted by Dr. Prem Nath (WW/3) also by taking note of the other relevant documents and more importantly, the fact that as per the list (Ex.W/2) produced before the learned Labour Court, other employees (workmen), who were junior to the workman, have been retained in service.

The findings recorded by learned Labour Court, in paragraphs No.12, 13, 14 & 15, are reproduced as under:-

“12. In the light of the above discussion, it is held that workmen who were juniors to present workman are still in service of respondents and even their services have also been regularized. So for this reason and as well as in view of the principles as laid down in the abovesaid case laws, the above contention of learned representative of the workman is held to be correct.

13. The learned representative of workman has further contended that after termination of services of present workman new workmen were appointed by the respondents without calling him and as such, there is violation of section 25H of the Industrial Disputes Act on the part of respondents. In support of his contention he has referred to cross-examination of MW1 Dr. Shard Kumar who has stated that in the year 1996-97 and 1998, new class IV employees were recruited on 89 days basis and that they are still in service of respondents. Then, it is further in his cross-examination that at the time of appointment of said workman, no notice was given to present workman. The learned representative of workman in support of above contention has also referred to case law as laid down in State of Punjab v/s Parvesh Kumar 1994(3) SCT 397(P&H). For the abovesaid reason, the above



contention of learned representative of workman is also held to be correct.

14. *The learned representative of respondents has raised the objection that workman is not entitled to any relief in this case since he has raised the instant Industrial dispute after a gap of about six years. But on the other hand, the learned representative of the workman has denied this contention of learned representative of the respondents and has submitted that there is no limitation for filing a claim under the Industrial Dispute Act and the court could only mold the relief regarding back wages, if there is delay in serving demand notice on the part of workman. In support of his contention, he has referred to the case law as laid down in Des Raj Verma vs. Presiding Officer, Labour Court, U.T., Chandigarh, 2003(4) SCT 522 (P&H).*

15. *In the light of the above discussion, it is held that there is violation of the provisions of section 25G and 25H of the Industrial Disputes Act on the part of respondents in terminating the services of workman. So, as such, termination of services of workman on the part of respondent is not held to be legal and valid. So, this issue is accordingly decided in favour of workman and against the respondents.”*

6. Thus, learned Labour Court has clearly observed that there is violation of Sections 25-G & 25-F of the ID Act, while terminating the services of the workman.

7. This Court after examining the reasons assigned in the impugned award dated 18.05.2004 (P-5), holds that the pleadings raised by the workman are true. Moreover, the stand taken by the Management is not sustainable in the eyes of law. Apart this, no substantial reason/point has been argued by the learned State counsel appearing for the petitioners (Management), for recording the same as a reason, to take a different view



than taken by the learned Labour Court in the award dated 18.05.2004 (P-5) impugned herein.

8. Thus, for the reasons recorded here-above, the well-reasoned award dated 18.05.2004 (P-5) passed by the learned Labour Court is maintained and the present writ petition is hereby **dismissed**.

(SANJAY VASHISTH)
JUDGE

May 09, 2024
J.Ram

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