



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

210-1

CWP-10573-2005

Decided on : 09.05.2024

Health & Family Welfare Department, Punjab,
Chandigarh and others

... Petitioner(s)

Versus

Mander Singh 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 16.12.2004 (Annexure P-5), passed by respondent No.2 – learned Presiding Officer, Labour Court, Bathinda, whereby, Ref. No.356/2001, 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. 24.04.1995. He was drawing the wages of Rs.1750/- per month. His services were terminated on 21.07.1995 without any notice, charge-sheet, notice pay or retrenchment notice etc.

Even after his termination, the other workmen, who were junior to him, are



still in service of the Management and a new person namely; Major Singh, has been appointed after termination of the services of the workman. 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, in reply, the Management took preliminary objections such as, reference is not maintainable, workman has concealed the material facts and the termination of the workman from the services, is according to rules and regulations of the Health Department. On merits, Management pleaded that the workman 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 very beginning.

4. Learned Labour Court, vide order dated 17.12.2002, 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 – Avtar Singh, Medical Officer, appeared as MW/1 and proved the appointment of the workman on temporary basis by producing the appointment letter as Ex.M/1, and the photocopy of joining report, as Ex.M/2. The termination letter dated



21.07.1995 (Ex.M/5) was also proved by the said witnesses.

5. On the other side, workman himself appeared as WW/3 and produced another witness – Rita Parvesh, Junior Assistant as WW/2, who deposed that workmen who were appointed on 89 days basis, are still working with the respondents and even their services have been regularized vide order dated 26.05.2003. She proved the list of said workmen as Ex.W/2, and copy of order (Ex.W/2), vide which, their services were regularized.

Besides, another witness produced by the workman i.e. Harbans Kaur (WW/2), also proved the list of workmen (Ex.W/3) appointed on 89 days basis and deposed that said workmen are still working and their services have also been regularized.

The findings recorded by learned Labour Court, in paragraphs No.11, 12 & 13, are reproduced as under:-

“11. The learned representative of workman has further contended that after termination of present workman, new workmen were appointed by the respondents without calling him and as such there is also a violation of the provisions of Section 25H of the ID Act on the part of respondents. In support of his contention, he has referred to cross-examination of Avtar Singh, who has admitted in his cross-examination that after termination of services of the workman, new workmen were appointed on 89 days basis, who are still working with the respondents, but no notice was given to present workman at that time. The learned representative of workmen in support of his contention has referred to case law as laid down in State of Punjab v/s Parvesh Kumar 1994(3) SCT 397(P&H), wherein, it has been laid down that when the department did not write any letter to the workman at the time of appointment of new workmen, after termination of services,



then there is clear violation of the provisions of Section 25H of the Industrial Disputes Act.

12. *The learned representative of respondent have raised the objection that the workman is not entitled to any relief in this case since he has raised the instant dispute after a gap of about six years. But on the other hand, the learned representative of the respondents and has submitted that there is no limitation for filing a claim under the Industrial Disputes 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.*

13. *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 16.12.2004 (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 16.12.2004 (P-5) impugned herein.

8. Thus, for the reasons recorded here-above, the well-reasoned



award dated 16.12.2004 (P-5) passed by the learned Labour Court is maintained and the present writ petition is hereby **dismissed**.

9. At this stage, counsel for respondent No.1 – Mander Singh (workman) informs the Court that workman – Mander Singh, has expired on 24.11.2022 i.e. during the pendency of present writ petition filed by the petitioners (Management).

In support of his contention, death certificate dated 30.11.2022, has been produced in Court, which is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

He, thus, submits that service benefits accruing through the impugned award (P-5) be disbursed to the legal representatives/legal heirs of the deceased workman (respondent No.1 herein), without any unreasonable delay.

Ordered accordingly.

However, it is clarified that in case the statement made by counsel for respondent No.1 – workman is correct, all the benefits accruing through the impugned award (P-5), be extended to the legal representatives/legal heirs of the deceased workman (respondent No.1), without any unnecessary delay.

(SANJAY VASHISTH)
JUDGE

May 09, 2024

J.Ram

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

Whether Reportable: ✓ Yes/~~No~~