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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-12239-2000
Date of decision: 27.02.2024

GENERAL MANAGER, PUNJAB ROADWAYS AMRITSAR-1
..... PETITIONERS
VERSUS

JASWANT SINGH & ORS
..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present :- Mr. Brijesh, AAG, Punjab,
for the petitioner.

Mr. Prateek Mahajan, Advocate,
for respondent No. 1.

SANJAY VASHISTH, J. (ORAL)

1. Present writ petition has been filed by the General Manager, Punjab Roadways, Amritsar-1 (being Management), challenging the award dated 06.07.1993 (Annexure P-1), passed by the Labour Court, Amritsar (hereafter referred to as 'the Labour Court'), whereby Reference No. 127 of 1984, under Section 10(1)(c) of the Industrial Disputes Act, 1947 (hereafter referred to as, 'the Act'), has been answered in favour of respondent No.1- Jaswant Singh (workman). Learned Labour Court held in specific that the termination of service of the workman is against law and, therefore, workman is entitled to reinstatement with continuity of service alongwith full back wages.

2. The said award was assailed by the Management before this Court by way of CWP No. 5699 of 1994, which was referred to the Lok Adalat of this Court (Punjab and Haryana High Court). During its pendency,

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said writ petition was disposed of by issuing direction to pay 50% of the back wages to the respondent-workman (wrongly typed as petitioner), within three months. Needless to observe that the direction to pay 50% of the back wages was issued after giving consent by the workman to that effect before the Lok Adalat.

3. This is how order dated 19.11.1999 (Annexure P-2), passed by the Lok Adalat of this Court (Punjab and Haryana High Court), in CWP No. 5699 of 1994, is under challenge in the present writ petition, in writ jurisdiction before this Court.

4. After seeking required instructions, Mr. Brijesh, learned Assistant Advocate General, Punjab, while appearing for the petitioner-management, informs the Court that during the pendency of the writ petition before this Court, decision/award of the Labour Court was implemented, in regard to the reinstatement of the workman in service. However, after attaining the age of superannuation, he has already retired from service near about the year 2015.

5. It is also informed that one application bearing No. 58 of 2007, under Section 33-C (2) of the Act, was filed by the workman, and the same was allowed by the Labour Court, vide order dated 18.11.2014, by holding him entitled for an amount of Rs.7,71,395/-, with a rider that in case, the writ petition before this Court i.e. CWP No. 5699 of 1994, is answered in favour of the Management-Punjab Roadways, Amritsar-1, the workman shall return the entire amount, and to that effect, he has to give an undertaking on Rs.100/- stamp paper without any surety.

6. Learned State counsel representing the petitioner-management has produced a copy of the order dated 18.11.2014, today in the Court, and the

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same is made part of the record as Annexure 'A'. Registry is directed to tag the same at an appropriate place of the paper book. Para No. 10 of the order dated 18.11.2014, under the heading 'Relief', passed by the Labour Court in Application No. 58 of 2007, under Section 33-C(2) of the Act, says as under:-

"RELIEF

10. In view of my findings on the foregoing issues, the application is accepted and the applicant is held entitled for the amount of Rs. 7,71,395/-. The respondent-management is directed to pay the said amount to the applicant within thirty days from the date of publication of order, otherwise applicant shall be entitled to interest at the rate of 9% per annum thereon from the date of order till realization. It is made clear that if the writ- petition, which is pending in the Hon'ble High Court, is decided in favour of the Punjab Roadways, then the applicant shall return the entire amount. Before disbursing the amount, the applicant shall give undertaking on hundred rupees stamp paper without any surety that if he loses the case in the Hon'ble High Court, he will refund the amount to Punjab Roadways, Amritsar-1. Parties are left to bear their own costs. Reader of this Tribunal is directed to forward three copies of this Order to Assistant Labour Commissioner/Labour-cum-Conciliation Officer, Amritsar, as required under section 33-C (4) of the I.D. Act read with Notification No. S.O. 66/C. A.14/1947/S.17/2008 dt. 1.10.2008. File be consigned to record room."

7. It is further informed that after passing of the order dated 18.11.2014 (Annexure 'A'), the workman also filed an Execution petition, bearing No. 622 of 2015, which was also disposed of vide order dated 02.07.2019, in view of the fact that the entire payment which was to be received by the workman, was already paid. In this regard, learned State counsel has furnished a photocopy of the order dated 02.07.2019, passed in Execution No. 622 of 2015, which is also made part of the record of this petition as Annexure - 'B'.

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8. During the course of hearing, few facts which emerged are that the Labour Court vide its impugned award has held in specific that termination of the workman was illegal, which makes him entitled to reinstatement in service, with continuity along with full back wages. During pendency of the writ petition, award was implemented by the petitioner-management and in pursuance to the order dated 18.11.2014, passed in application under Section 33-C (2) of the Act, and subsequent order dated 02.07.2019, passed in Execution No. 622 of 2015, the award has been fully satisfied, after the same being agreed by the workman to accept 50% back wages. There is no dispute to the fact that satisfaction of the workman was recorded earlier also by the Lok Adalat of this Court, while conducting the proceedings in CWP No. 5699 of 1994, that he would be fully satisfied with the 50% back wages.

9. As on date, there is no dispute that the amount has been received by the workman/employee in the year 2019 and the execution application has also been disposed of, after the satisfaction of the relief provided in the award. It is also informed that the workman/employee has already retired, near about in the year 2015, after attaining the age of superannuation. Looking at the genuineness of the findings recorded by the Labour Court, there is no authentic reason to disturb the same, and therefore, it would be fully justified for the workman also to not to claim full back wages because he has already been benefited by receiving payment of 50% back wages during the execution proceedings.

10. I have heard learned counsel for both the sides at length and also examined the record completely. I do not find any reason to disturb the findings recorded by the Labour Court. Moreover, the relief qua the back

wages to the extent of 50% has already been extended to the workman after the same being agreed by him during the proceedings which were before this Court in earlier round of litigation, i.e. CWP No. 5699 of 1994. Even, more than 8/9 years have already passed after the retirement of the workman. Now, with the efflux of time, no purpose would be achieved by anyone, by making any kind of change in the position which exists as on date. Therefore, award dated 06.07.1993 (Annexure P-1) is modified to the extent that the workman shall be entitled to the 50% back wages only, instead of full back wages.

11. With the aforementioned observations, present writ petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

27.02.2024
Anu

Whether speaking/reasoned	Yes
Whether Reportable :	No