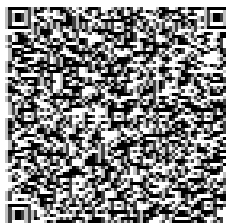


2024:PHHC:081758-DB



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

(106)

LPA-1182-2024 (O&M)

The Bhakra Beas Management Board & another

.....Appellant(s)

Versus

Jai Bhagwan & another

.....Respondent(s)

(2)

LPA-1247-2024 (O&M)

The Bhakra Beas Management Board & another

.....Appellant(s)

Versus

Suresh & another

.....Respondent(s)

(3)

LPA-1253-2024 (O&M)

The Bhakra Beas Management Board & another

.....Appellant(s)

Versus

Daya Nand & another

.....Respondent(s)

Decided on : 02.07.2024

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE VIKAS BAHL**

Present: Mr.Rohan Mittal, Advocate for the appellant (s).

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-3318-LPA-2024 in LPA-1182-2024

CM-3335-LPA-2024 in LPA-1247-2024

CM-3354-LPA-2024 in LPA-1253-2024

1. Applications for preponing the hearing of the main appeals
from 06.08.2024 are allowed in view of the averments made in the

applications. Hearing of the main appeals is preponed from 06.08.2024 to today.

2. CMs stand disposed of.

CM-2844-LPA-2024 in LPA-1182-2024

CM-2997-LPA-2024 in LPA-1247-2024

CM-3011-LPA-2024 in LPA-1253-2024

3. Applications for condoning the delay of 95 days in filing the present appeals are allowed in view of the averments made in the applications duly supported by affidavit of the official. Delay of 95 days in filing the present appeals is hereby condoned.

4. CMs stand disposed of.

LPA-1182, 1247 & 1253-2024 (O&M)

5. Consideration in the present set of 3 appeals bearing LPA-1182, 1247 & 1253-2024 is to the judgment dated 04.01.2024 passed by the Learned Single Judge whereby three writ petitions were allowed and the common award dated 14.10.2008 rendered by the Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh was modified in favour of the workmen. By virtue of the said judgment, the Learned Single Judge has granted lump sum compensation of Rs.2 lakhs each to be paid within a period of 3 months from the date of receipt/presentation of the certified copy of the order. On failure of payment of the amount within the prescribed period, the benefit of simple interest @ 6% per annum was to be granted to the workmen.

6. The reason which weighed with the Learned Single Judge was that the workmen had worked from 1987 till 1990 and their services were terminated in violation of the provisions of Section 25(FFF) of the

that there was litigation in the year 1994 and keeping in view the fact that notice of motion was issued at the initial stage on the aspect of enhancement of compensation, the amount was assessed. Reference has been made to the judgment of the Apex Court in **Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat, 2010 (3) SCT 319** for the grant of the said benefit while noting the fact that the workmen who were working as daily wage workers had completed 240 days and were entitled to receive one month's salary in lieu of notice and retrenchment compensation which conclusion was drawn by the Learned Single Judge since the defence of the present appellants was that the undertaking had closed down and therefore, under the provisions Section 25(FFF) of the Act, the offer of compensation had been made to them which had not been availed. Keeping in view the provisions of Section 25-F of the Act, the mandatory payment the compensation having not been granted, led the Learned Single Judge to grant the benefit of compensation in view of the illegality which had occurred by dispensing with the services of the workmen.

7. Mr.Mittal has vehemently submitted that it was not mandatory to pay compensation and the workmen had been given the option to collect one month's salary in lieu of notice which was the retrenchment compensation from the concerned SDO, Bhiwani. Reference is made to the notice dated 27.02.1990 (Annexure P-8) wherein the said fact was incorporated. Resultantly, he has relied upon the judgment of this Court in **Payment of Wages Inspector, Ujjain Vs. Barnagar Electric Supply & Industrial Co. Ltd. & another, 1969 AIR (SC) 590** to submit that it was not mandatory and the Learned Single

Judge while relying upon the admitted fact that in the reply before the Tribunal, in para Nos.6 & 7, they had admitted that the notice had been served upon them by they had refused to accept the same and offer had been made at the time of retrenchment but the workmen had refused to accept the same. It is thus submitted that the Learned Single Judge was not justified to come to the conclusion that the retrenchment was illegal and it was mandatory to pay along with the notice in case of the undertaking closing down. It is his contention that the amount could have been collected later but time was not given. He has also referred to Section 2(cc) of the Act to argue that closure of the undertaking means permanent closing down of a place of employment or part thereof and submit that the notice was accordingly issued under Section 25-FFF of the Act.

8. We are not impressed with the arguments raised by counsel for the appellants. A perusal of the notice dated 27.02.1990 (Annexure P-8) would go on to show that there was reduction of work due to part completion of the work and resultant tapering of work and resultantly, the services were dispensed w.e.f. the next day i.e. 28.02.1990. Notice offering the amount was given and the workmen were advised to collect the wages. The said notice reads as under:

“BEAS CONSTRUCTION BOARD (POWR WING)

From

The Executive Engineer,
GSS Divn., Beas Project,
Bhiwani.

To

Jai Bhagwan son of Giani Ram, resident of Village
Madhana, Tehsil Bawani Khera, District Bhiwani, Haryana.

Sub: Notice of discharge under Section 25(FFF) of the I.D.Act, 1947.

You are hereby informed that due to reduction of work, due to part completion of the work and resultant tapering of work, your service is no longer required w.e.f. 28.2.90 (A.N.).

Please treat notice of the same.

You are advised to collect one month wage in lieu of one month notice and the amount of retrenchment compensation from the SDO G/W/S/D II BP, Bhiwani.

Sd/-

Executive Engineer,

GGs Divn, Beas Project,

Bhiwani

Endst.No.2079-821

Dated:27.2.90

9. The Learned Single Judge has thus fallen back upon the provisions of Section 25 & 25(b) of the Act to come to the conclusion that it was mandatory to serve one month's notice. The objection was that the workmen's services had been dispensed with on the same day itself. The purpose being salutary only that the workmen has the wages in hand a month before he could get his alternative wage so that he could not be put to penury. The Act is a beneficial piece of legislation intended to protect the interests of the workmen.

10. In **Harjinder Singh Vs. Punjab State Warehousing Corporation, 2010 (3) SCC 192** the jurisprudence from the 1970s to 1990s was summarized including doctrine of laissez faire. It was accordingly held that the Act was a social welfare legislation and the same is required to be required to be interpreted keeping in view the goals set out in the Preamble of the Constitution. The provisions contained in Part IV thereof in general and Articles 38, 39(a) to (e), 43 & 43A were referred to keeping in mind that social justice is a dynamic devise to mitigate the

sufferings of the poor. The concept of Welfare Estate was referred to and the fact that the Constitutional Courts have to keep this in mind that the accountability of the wrong doer and indirectly punishing the tiny beneficiary and if the man is deprived of his livelihood, equality and status. If the said purpose are to be kept in mind, the Learned Single Judge has validly come to the conclusion that the retrenchment on account of Section 25(FFF) of the Act was in violation of the provisions and the amount have not been paid as compensation.

11. The law stands settled on the issue of grant of compensation. Reference can be made to the judgments in **Jagbir Singh Vs Haryana State Agricultural Marketing Board (2009) 15 SCC 327**, **Devinder Singh Vs Municipal Council, Sanaur, (2011) 6 SCC 584** and **Assistant Engineer, Rajasthan Development Corporation and another Vs Gitam Singh (2013) 5 SCC 136**. Similarly in **Bharat Sanchar Nigam Ltd. Vs Man Singh (2012) 1 SCC 558**, instead of reinstatement of daily wagers, grant of compensation was awarded.

12. The judgment referred to by counsel for the appellant in Payment of Wages Inspector, Ujjain (supra) is more on the factual aspect of maintainability of proceedings under the Payment of Wages Act, 1936 for recovery on account of the transfer of an undertaking by an agreement and the observations under the mandatory part under Section 25(FFF) of the Act had flown there.

13. We are also in agreement with the Learned Single Judge regarding the issue of part closure since the notice dated 27.02.1990, reproduced above, would go on to show that it was only on account of the scarcity of the work at the site in question, retrenchment had been done and there was no reference to any undertaking being closed down much

less permanently and therefore, the argument which has been raised is is not to be taken into consideration.

14. In such circumstances, we are of the considered opinion that the view which has been taken by the Learned Single Judge does not suffer from any infirmity which would warrant interference in the present set of appeals. Resultantly, the same are hereby dismissed. All pending application(s) are stand disposed of.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

02.07.2024
Sailesh

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No