

CWP-1578-2011

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

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CWP-1578-2011

Decided on : 18.01.2024

Satish Kumar

. . . Petitioner(s)

Versus

Presiding Officer, Labour Court, Patiala & Ors.

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. A.S. Pannu, Advocate for
Mr. Vikas Singh, Advocate
for the petitioner(s).

Mr. Vipin Pal Yadav, Addl. AG, Punjab.

SANJAY VASHISTH, J. (Oral)

1. Present writ petition has been filed by the petitioner – workman, under Articles 226/227 of the Constitution of India, challenging the award dated 22.01.2010 (Annexure P-3), whereby, relief of reinstatement along with all consequential benefits has been declined to the petitioner.
2. Petitioner – workman, joined the respondent – Department on 31.08.1995 and continuously worked up-till 14.08.1996 i.e. the date of termination,. Said action of termination was questioned before the learned Labour Court, Patiala (respondent No.1). While deciding the dispute, in the award, it has been observed that the petitioner – workman had completed more than 240 days in last year of his working and also observed that action of termination of the service of petitioner – workman – Satish Kumar, amounts to retrenchment.
3. It has also been observed by the learned Labour Court that the reason of terminating the service of the petitioner – workman is transfer of a

regular clerk to the post, where the petitioner – workman was working.

4. Learned Labour Court found the termination to be illegal, but taking note of the fact that a long period has already elapsed, instead of passing direction of reinstatement along with back wages, ordered for payment of a lump-sum compensation of an amount of Rs.25,000/-.

5. While addressing the arguments, counsel for the petitioner – workman submits that the amount of lump-sum compensation is on the lesser side, thus, same requires to be enhanced.

6. Relevant findings recorded by learned Labour Court, in respect of issues No.1, 3 & 4, is reproduced hereunder:-

“ *Non-compliance of the provisions of Section 25-F of the Industrial Disputes Act-1947 although may lead to the grant of relief of reinstatement with full back wages and continuity of service in favour of the retrenched workman, the same would not mean that such relief is to be granted automatically or as a matter of course, as has been held by the Hon'ble Supreme Court in Haryana State Electronics Development Corporation Ltd.'s case (supra). In the said case Hon'ble Supreme Court modified the impugned Award by directing that the workman shall be compensated by payment of Rs. 25000/- in stead of order of reinstatement with back wages.*

The Respondent Department is governed by its own service rules and regulations. Satish Kumar was not the regular employee of the respondent department. Proper procedure was not followed while giving him employment. Such type of ad-hoc/temporary appointments being contrary to the provisions of Article 14 and 16 of the Constitution are illegal, as has been held by the Hon'ble Supreme Court in Secretary, State of Karnataka Vs. Uma Devi and others 2006 (2) LLJ Page 722 (SC). Even. Otherwise, in the present case

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the services of workman were terminated more than 13 years back.

In the light of the above discussion, it is held that workman Satish Kumar is not entitled to relief of reinstatement with back wages. Taking into consideration the fact that services of the workman were terminated in violation of the provisions of Section 25-F of the Industrial Disputes Act and that this reference remained pending for more than 10 years, interests of justice shall be sub-served if compensation worth Rs.25000/- is directed to be paid to the workman by the respondent department.

Accordingly, issue No. 4 is decided against the respondents and in favour of the workman. Issues No. 1 & 3 are also disposed of while holding that workman Satish Kumar is entitled to get compensation worth Rs.25000/- from the respondents in place of order of reinstatement with full back wages.”

7. While addressing the arguments, counsel for the petitioner – workman, does not dispute that the reference remained pending for more than 10 years, and the present writ petition is also pending for more than 12 years.

8. On perusal of the orders passed on different dates, this Court finds that proceedings kept on adjourning for one reason or the other, though issue appears to be not a big one.

Thus, taking note of the aforesaid facts & circumstances, this Court deems it appropriate to dispose of the present writ petition by directing the respondent – Management to pay Rs.25,000/- more to the petitioner – workman, as a lump-sum enhancement amount towards all the heads without any past interest.

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9. Thus, this Court holds that the petitioner – workman is to be paid Rs.25,000/- more, over and above, the already awarded amount of Rs.25,000/- by the learned Labour Court. Let this amount be paid by the respondent – Management to the petitioner – workman within a period of two months from today, failing which, an interest @ 7.5% per annum would be payable on the enhanced amount of Rs.25,000/-.

The said enhancement is being done in the circumstances when the learned Labour Court itself had found that the action of the respondent – Management of terminating the service of the petitioner – Management, is illegal.

Writ petition stands **disposed of** in above terms.

(SANJAY VASHISTH)
JUDGE

January 18, 2024

J.Ram

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

Whether Reportable: ~~Yes~~/~~No~~ ✓