



CWP-16107-2024

-1-

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

115

CWP-16107-2024

Date of decision: 13.08.2024

UMESH NAYAK

....PETITIONER

Vs.

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mrs. Rajni Bala Rohilla, Advocate
for the petitioner.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of Award dated 06.11.2023 (Annexure P-12) whereby Labour Court has awarded compensation to the tune of Rs. 4.5 lacs.
2. The petitioner joined respondent No. 4 on 22.03.2011 as Senior Designer Civil & Structure. He submitted his resignation and accordingly he was relieved on 13.01.2017.
3. The petitioner approached Labour Court alleging that resignation was not voluntary which is evident from the fact that he was paid one month salary at the time of relieving. The Labour Court accepted his contention to the extent that resignation was not voluntary and considering the fact that he had gone to Kuwait and worked there from October' 2017 to May' 2018 and thereafter worked with a Company situated at Noida (U.P.) from July' 2018 to October' 2019, ordered to pay him lump sum compensation of Rs. 4.5 lacs. The



relevant extracts of findings recorded by Labour Court are reproduced as below:-

“12. *I have duly considered the rival submission(s) in the light of material placed before me.*

13. *There is no doubt that PW-1 was a permanent employee. His services conditions were governed by appointment letter Ex.RW-1/2 which provides that in the event of resignation or termination of services, either side was to give notice of 30 days or salary in lieu thereof. Resignation letter Ex.RW-1/3 was given on 13.01.2017 and had it been given voluntarily then the respondent were not required to give notice period pay for two months. RW-1 could not explain any reason for making such payment to the applicant. The resignation letter would not become valid if police complaint was not lodged by the applicant. The applicant can prove his case from the surrounding circumstances.*

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17. *Admittedly; PW-1 was a permanent employee and therefore, Section 2(oo) (bb) of the Act is not applicable. It applies when the employment was for fixed term. The services of PW-1 could not have been terminated even by invoking Clause 4 of the appointment letter.*

18. *However, PW-1 is dis-entitled for reinstatement. After his illegal termination by the respondent, he went to Kuwait and worked for a company from Oct.-2017 to May-2018. He returned to NOIDA (UP) and worked in another firm from July-2018 to Oct.-2019. Thereafter, he worked in M/s Esteem Product Pvt. Ltd. NOIDA from Oct.-2018 till date. PW-1 did not disclose these facts in his affidavit. Nonetheless, continuous working of PW-1 from March-2011 to Jan.-2017 is not disputed. Therefore, PW-1 is entitled for compensation of Rs. 4.5L only. This issue is decided in favour of the applicant.*

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xxx

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**Issue No. 4 (Relief)**

20. *The respondent is directed to pay compensation of Rs.4.5L to the applicant within three months from the date of publication failing which the same shall carry simple interest @ 9% per annum from the date of filing of the application till actual realization. Copy of the award be sent to the quarter concerned forthwith. File be consigned to the Record Room after due compliance.”*

4. Mrs. Rajni Bala Rohilla, Advocate submits that Labour Court has determined compensation on the lower side. The petitioner belongs to PWD category and he is 40% disabled. He deserves higher compensation.

5. I have heard counsel for the petitioner and with her able assistance perused the record.

6. From the perusal of record, it comes out that petitioner submitted his resignation on 13.01.2017 and petitioner claimed that it was not voluntary. In support of his contention, he pleaded that he was given one month salary in lieu of 30 days notice. The Labour Court accepted his contention and held that resignation was not voluntary. The Labour Court has rightly considered the fact that petitioner from October’ 2017 to May’ 2018 worked with a Company at Kuwait and thereafter from July’ 2018 to October’ 2019 with a Company at Noida (U.P.), thus, it would not be just and fair to order reinstatement. The Labour Court has determined compensation to the tune of Rs. 4.5 lacs. The petitioner had worked with respondent No. 4 from 2011 to 2017. He was drawing salary to the tune of Rs. 1,09,812/-. He, at the time of relieving was paid one month salary. The amount of compensation determined by Labour Court is in consonance with Section 25-F of Industrial Disputes Act, 1947.



CWP-16107-2024

-4-

There is no jurisdictional error or manifest illegality warranting interference of this Court.

7. Dismissed.

13.08.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No