

CWP-24563-2015

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

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**CWP-24563-2015
Decided on: February 06, 2024**

Smt. Saroj

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Gurgaon
and another**

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Ms. Nandita Aggarwal, Advocate,
for Mr. Sumeet Jain, Advocate,
for the petitioner.

Mr. Rajiv Sharma, Advocate, for respondent No. 2.

SANJAY VASHISTH, J.

1. Petitioner – Smt. Saroj (work-woman) has filed the present writ petition, seeking quashing of the impugned award dated 18.09.2012 (Annexure P-2), passed by the Industrial Tribunal-cum-Labour Court-I, Gurgaon (here-after referred to as, ‘the Tribunal’), in Reference No. 437 of 2008, whereby the Tribunal, though came to the conclusion that termination of the petitioner/work-woman was illegal, but instead of ordering reinstatement of the work-woman in service with continuity and back wages, awarded a lumpsum amount of Rs.30,000/- only, as compensation.

2. Petitioner/work-woman joined as *Safai Karamchari* in the respondent No. 2 School (Management) on 02.01.2004 and worked for 4 years. She was working with utmost sincerity and devotion. However, without assigning any reason or adhering to the provisions of the Industrial

Disputes Act, 1947 (here-after referred to as, ‘the Act’), as also the principles

of natural justice, respondent No. 2-management terminated the services of the petitioner/work-woman on 02.01.2008, i.e. after about 4 years.

3. Petitioner/work-woman herself appeared in the witness-box as PW-1 and also produced one Rajender Kumar, Clerk, as PW-2, who produced attendance record (Ex. PW-2/1) and payment register (Ex. PW-2/2).

On the other hand, respondent-management also produced said Rajender Kumar, Clerk, as its witness (MW-1), and filed detail of service period of the petitioner/work-woman as Ex. R-1.

4. After going through the evidence available on record, learned Tribunal found that there is notional break of one or two days, which amounts to unfair labour practice. Also observed that no retrenchment compensation was paid to the work-woman. However, while taking note of the fact that the work-woman was terminated more than 25 years earlier, keeping in view the length of service and attending circumstances, instead of reinstatement, learned Tribunal awarded an amount of Rs.30,000/- as compensation in favour of the work-woman. While awarding amount of compensation, the Tribunal also mentioned that in case the said amount is not paid within eight weeks from the date of receipt of copy of the order, simple interest @ 9% per annum, would also be payable over the compensation amount.

5. Ms. Nandita Aggarwal, learned counsel representing the petitioner/work-woman vehemently submits that the petitioner has already suffered a lot despite of serving spotless service with the respondent-

management. Thus, she deserves either reinstatement with continuity of service and full back-wages or the compensation amount deserves to be enhanced to some reasonable level.

6. On the other hand, Mr. Rajiv Sharma, learned counsel for respondent No. 2, submits that the compensation amount of Rs. 30,000/- awarded by the Tribunal is just and reasonable and no interference is required by this Court. However, there is no denial that the findings given by the Tribunal are not under challenge at the instance of the respondent-management.

7. I have gone through the pleadings, findings recorded in the impugned award appended with the writ petition, and also heard learned counsel representing both the sides, at length.

8. Petitioner/work-woman joined service on 02.01.2004 and worked for about 4 years, i.e. upto 02.01.2008. Witness of the respondent-management, namely, Rajender Kumar, Clerk, while appearing as MW-1, produced the details of the service period of petitioner/work-woman as Ex. R-1. During course of hearing, learned counsel for the petitioner/work-woman produced photocopy of the said document (Ex. R-1), to show details of the service period. Needless to say that the said document is part of the lower court record, accordingly the same is taken on record of present petition as well for the purpose of convenience. Registry to tag the same at an appropriate place. Details relied upon by the witness of respondent-management are reproduced hereunder:-

“ *Details of Service of Mrs. Saroj Devi Safai Karamchhari*

<i>S. No.</i>	<i>Period</i>	<i>Months</i>	<i>Remarks</i>
1	22-12-2004 to 20-6-2005	6 Months	Discontinued 26-6-2005 22-6-2005
2	23-6-2005 to 22-12-2005	6 Months	Discontinued 23-12-2003
3	24-12-2005 to 23-6-2006	6 Months	Discontinued on 24-6-2006 & 25-6-2006
4	26-6-2006 to 25-12-2006	6 Months	Discontinued on 26-12-2006
5	27-12-2006 to 26-6-2007	6 Months	Willfully absented & left the temporary Service w.e.f. 04- 04-2007 to 01-07-2007

Mrs. Saroj Devi was reappointed on 02-07-2007 on her request.

- 1. The service of Mrs. Saroj Devi Safai Karamchari was purely on temporary basis as clearly mentioned to her in her application/appointment.*
- 2. She was appointed on 02-07-2007 for the period 02-07-2007 to 01-01-2008*
- 3. She stopped coming after 29th Dec. 2007 without any information and did not come at all after that.”*

9. It is noticed very seriously that despite of taking service from December 2004 to June 2007, cleverly the respondent-management created the gap of one or two days, without any plausible/substantial reason.

Thus, from the details given in Ex. R-1, it becomes clear that as per the stand taken by the respondent-management itself, the petitioner/work-woman worked from 22.12.2004 to 26.06.2007. Taking note of the said fact and other circumstances, this Court is of the view that it would be just and equitable, if the compensation amount is enhanced to some reasonable level.

10. As a result of the aforementioned discussion/observation, the impugned award dated 18.09.2012 (Annexure P-2), passed by the Tribunal,

is modified. Respondent No. 2-management is directed to pay the total compensation amount of Rs.2,00,000/- to the petitioner/work-woman. It is made clear that the said enhanced compensation amount of Rs.2,00,000/- would be inclusive of the compensation amount of Rs.30,000/-, as already ordered by the Tribunal. In other words, the petitioner/work-woman would be entitled to Rs.1,70,000/- over and above the amount of Rs.30,000/- awarded by the learned Tribunal.

However, the compensation amount enhanced by this Court shall be payable by respondent No. 2-management to the petitioner/work-woman, within a period of three months from today, and in case of default/non-compliance, respondent No. 2-management would also be liable to pay interest @ 6% per annum over the enhanced amount of Rs.1,70,000/-, with effect from 10.05.2024 till the date of actual payment.

11. Before parting with the judgement, it is also made clear that the observation made by the Tribunal in regard to the payment of compensation amount of Rs.30,000/- and interest etc., is altogether independent finding and is not to be read in conjunction with the enhanced amount of compensation by this Court.

12. Writ petition stands disposed of, in the above terms.

Copy of this judgement be forwarded at the address of respondent No. 2-management.

(SANJAY VASHISTH)
JUDGE

February 06, 2024
Pkapoor

Whether speaking/reasoned?	✓Yes/ No
Whether reportable?	Yes/ No ✓