

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

(1)

CWP-24811-2015 (O&M)

SYNDICATE BANK

...Petitioner

Versus

THE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-2,
CHANDIGARH AND ANOTHER

...Respondents

(2)

CWP-19373-2018 (O&M)

Date of Decision: 04.01.2024

JOGINDER SINGH

...Petitioner

Versus

THE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
SECTOR 18, CHANDIGARH AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Vipin Mahajan, Advocate
for the petitioner (in ***CWP-24811-2015***)
and for respondent No.2 (in ***CWP-19373-2018***).

Mr. O.P. Indal, Advocate
for the petitioner in (***CWP-19373-2018***)
and for respondent No.2 (in ***CWP-24811-2015***).

HARSH BUNGER, J.

C.M. No.21321-CWP-2023 in **CWP-24811-2015**

The instant application (***CM-21321-CWP-2023***) has been filed
on behalf of applicant/respondent No.2-workman (Joginder Singh); wherein,
a prayer has been made for issuance of suitable order/direction to release the

amount of Rs.10,000/- deposited by the petitioner-Bank, to defray the litigation expenses, to Ms. Richa Indal, Advocate.

Since, the said application has been moved on **11.12.2023** and has been listed on **21.12.2023** before this Court, after the main case having been reserved on 01.12.2023; accordingly, vide order dated 21.12.2023, it has been ordered to be considered along with the main case.

I have considered the prayer made in the afore-said application.

A perusal of the order sheets would reveal that while issuing notice of motion in this case on 30.11.2015, this Court had directed the petitioner-Bank to deposit Rs.10,000/- before the Registrar General of this Court to defray the litigation expenses of the workman and the said amount was to be deposited within one month.

A further perusal of the order sheets would reveal that on 25.11.2019, the following order as passed :-

“Learned counsel for respondent No.2 has referred to the order dated 30.11.2015 passed by this Court, wherein, litigation expenses were ordered to be deposited with the Registrar General of this Court to be disbursed to respondent No.2. She prays that the said amount may be ordered to be disbursed to respondent No.2.

On an application submitted by respondent No.2 before the Registrar General of this Court, the amount of litigation expenses, as deposited by the petitioner, be disbursed to him by way of a bank draft issued in favour of respondent No.2 to be collected by his counsel.

Let reply to the writ petition, if any, be filed by respondent No.2 within a period of eight weeks with an advance copy to the counsel for the petitioner.

List on 27.05.2020 for consideration/arguments.

Replication, if any, be filed six weeks prior to the next date of hearing.

Interim order to continue till the next date of hearing.”

Since, there is already an order on the file mentioning that on an application submitted by respondent No.2-workman before the Registrar General of this Court, the amount of litigation expenses, as deposited by the petitioner-Bank, is to be disbursed to him by way of Demand Draft issued in favour of respondent No.2-workman to be collected by his counsel, no separate orders are required to be passed in this application.

The application is, accordingly, disposed of.

CWP-24811-2015 (O&M)

CWP-19373-2018 (O&M)

1. This order shall dispose of two writ petitions bearing ***CWP-24811-2015*** titled as ***“Syndicate Bank Versus The Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court-2, Chandigarh and another”*** and ***CWP-19373-2018*** titled as ***“Joginder Singh Versus The Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh and another”*** as both of them have emanated from a common Award dated 15.10.2014 passed by the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh.

2. **CWP-24811-2015** has been filed by the **Syndicate Bank** (here-in-after referred to as ‘the Bank’), challenging the afore-said Award; whereby the reference of industrial dispute regarding termination of services of respondent No.2 (Joginder Singh) has been decided by holding that the action of the management in terminating the services of the workman is not legal and justified and accordingly, respondent No.2-workman has been held entitled to Rs.1,00,000/- by way of compensation.

CWP-19373-2018 has been filed by petitioner-Joginder Singh (workman) against the afore-said Award; whereby the relief of reinstatement and other consequential benefits have been denied to him.

A further prayer has been made for directing the respondent No.2-Management to reinstate the petitioner in service with all consequential benefits.

3. However, for the sake of convenience, the facts are being derived from **CWP-24811-2015** titled as ***“Syndicate Bank Versus The Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court-2, Chandigarh and another.”***

4. Briefly, respondent No.2-workman (Joginder Singh) raised an industrial dispute regarding termination of his services by the bank; which was subsequently referred by the appropriate Government to the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh (here-in-after referred to as ‘the Tribunal’) for adjudication.

In the claim statement, respondent No.2-workman pleaded that he was engaged by the Management on temporary basis on 21.08.2006 as a General Attendant and he worked continuously till 28.02.2008. Respondent no.2-workman claimed that his services were terminated on 01.03.2008, without serving any notice upon him or paying retrenchment compensation; hence, the termination of his services were in violation of Section 25-F of the Industrial Disputes Act, 1947 (for short ‘the 1947 Act’). Therefore, he prayed for reinstatement in service and other consequential benefits.

5. A perusal of the paper-book would reveal that the Bank-Management was proceeded against *ex-parte* vide order dated 07.09.2010 passed by the Tribunal below. Although, an application was filed

subsequently by the Bank for filing the written statement; however, the same was un-signed, accordingly, it was not taken into consideration and the case was fixed for the evidence of the workman.

6. The workman examined himself in support of his claim and submitted his affidavit, reiterating his stand taken in the statement of claim.

7. Upon considering the material/evidence available on the record, the Tribunal below decided the reference vide Award dated 15.10.2014 (Annexure P-6).

8. In the afore-mentioned circumstances, the above-referred writ petitions have been filed before this Court.

9. I have heard learned counsel for the respective parties and perused the paper-book with their able assistance.

10. It is well settled position that an employee appointed on temporary basis, is not governed by any Service Rules and he is bound by the terms and conditions incorporated in the appointment letter. It is also a settled legal proposition that a person, who has been appointed on ad hoc basis with the conditions stipulated in his appointment letter that his services can be terminated at any time without notice, does not have a right to claim any relief, if his services are terminated in terms thereof.

In ***State of U.P. and Ors. v. Kaushal Kishore Shukla, (1991) 1 SCC 691***, the Hon'ble Apex Court has categorically held as under :-

“Under the service jurisprudence a temporary employee has no right to hold the post and his services are liable to be terminated in accordance with the relevant service rules and the terms of contract of service.”

Hon'ble the Supreme Court in ***Parshotam Lal Dhingra v. Union of India, AIR 1958 Supreme Court 36***, has held that “A person can

be said to acquire a lien on a post only when he has been confirmed and made permanent on that post and not earlier” and further held that “a Government servant holding a post temporarily does not have any right to hold the said post.”

In *Chandradeo Gautam v. State of U.P. and Ors.*, **JT 2000(10) SC 199**, the Hon’ble Supreme Court held that the termination of services of temporary employee does not require interference on being removed on any ground as it does not cast any stigma or aspersion on him.

In *Nazira Begum Lashkar and Ors. v. State of Assam*, **AIR 2001 Supreme Court 102 : 2001 LaB IC 42**, the Apex Court held that where appointment neither confers any right nor any equity in favour of the employee, as the appointment was purely temporary and could be terminated without notice, no grievance can be entertained by such employee. Moreso, he cannot claim any equitable relief from any Court.

11. A temporary or ad hoc appointment does not confer any legal right. Such an appointee cannot claim equity in his favour, nor the equitable relief can be granted to him by the Court even if he had worked for an unusual long period, on humanitarian considerations. A person holding a temporary/ad hoc post is not a member of service in accordance with the statutory Rules and, therefore, cannot have any vested right in the post. [Vide *Nazira Begum Lashkar* (supra) and *P.D. Agarwal and Ors. v. State of U.P. and Ors.*, **AIR 1987 Supreme Court 1676**].

Similar view has been reiterated by the Hon’ble Apex Court in cases where the person was holding the tenure post by observing that by efflux of time appointment comes to an end automatically on the expiry of the tenure of appointment, and such appointee cannot claim any relief either

on the basis of equity, or humanitarian considerations, or in law. (Vide *Director, Institute of Management Development, U.P. v. Smt. Pushpa Srivastava, AIR 1992 Supreme Court 2070, State of U.P. v. Dr. S.K. Sinha, AIR 1995 Supreme Court 768.*)

12. Coming to the case in hand, the Tribunal below returned the following findings :-

“I have heard Sh. Raj Kaushik, counsel for the workman.

The workman has specifically pleaded that he worked with the respondent management on temporary basis from 21.8.2006 to 28.2.2008 and these assertions were supported by him while appearing in the witness box. The respondent management did not contest the claim of the workman despite appearing through authorized representatives and was later on proceeded against ex parte, as stated above. Since the management did not contest the claim of the workman despite having notice of the proceedings, it is reasonable to presume that the management itself admit his claim.

Thus relying on the testimony of the workman along with the fact that the management did not contest the claim, it stands proved on the file that the workman continuously worked with the respondent management from 21.8.2006 to 28.2.2008 on temporary basis.

It is categorically stated by the workman that he was not paid any retrenchment compensation. Thus the termination of the services of the workman are in violation of Section 25F of the Act which inter alia provides that the workman cannot be retrenched unless served with one month's notice in writing or paid compensation in lieu of such notice etc. Since the workman was not paid any retrenchment compensation, therefore, termination of his services are illegal.

There is nothing on the file to suggest that workman was appointed as per Rules and Regulations of the respondent management and it is the case of the workman himself that he was appointed on temporary basis. Since his appointment was not as per Rules and Regulations, his reinstatement cannot be ordered which will tantamount to backdoor entry into the service. In the circumstances, he is to be paid compensation for the termination of his services illegally. He has not mentioned the pay he was withdrawing.

Thus, compensation is to be given only by doing the guess work. Considering the circumstances it is to be held that he is entitled to Rs.1,00,000/- by way of compensation from the management.

In result, it is held that the action of the management in terminating the services of the workman is not legal and justified and workman is entitled to Rs.1,00,000/- by way of compensation from the management. The management shall pay the amount within three months from the publication of the award failing which the workman shall get interest at the rate of 6 per cent per annum from the date of the passing of the award till realization. The reference is accordingly answered. Let hard and soft copy of the award be sent to the Central Government for further necessary action.”

13. A perusal of the above-extracted findings returned by the Tribunal would indicate that the Bank was proceeded against *ex-parte* before the Tribunal below and accordingly, the stand taken by respondent No.2-workman (Joginder Singh) had gone un-rebutted. The workman had stated on affidavit that he was engaged by the Bank/Management on temporary basis from 21.08.2006 to 28.02.2008, continuously and since, no retrenchment compensation was paid to the workman; accordingly, his termination has been held to be in violation of Section 25-F of the 1947 Act.

The Tribunal below has further observed that since, there is no material on record to show that the workman was appointed as per Rules and Regulations of the Management and it was the workman's own case that he was appointed on temporary basis; accordingly, the Tribunal below did not grant the relief of reinstatement, by observing that the same would tantamount to backdoor entry into service. Accordingly, the Tribunal below has granted the compensation of Rs.1,00,000/- to respondent No.2-workman.

14. Keeping in view the afore-stated legal position and considering the fact that the petitioner was appointed on temporary basis and he had worked only from 21.08.2006 to 28.02.2008 i.e. about 1½ year and no material has been placed on record to show that respondent No.2-workman was appointed as per the Rules and Regulations of the Bank; accordingly, in my considered view, the Tribunal below has rightly declined the relief of reinstatement to respondent No.2-workman. Furthermore, in the instant writ petition filed by the Bank, no explanation is forth-coming as to in what circumstances, the petitioner-Bank was proceeded against *ex-parte* and as to what steps were taken by the Bank for seeking setting aside of those *ex-parte* proceedings.

15. In the writ petition, although a stand is sought to be taken by the Bank that respondent No.2-workman was engaged by the Branch Manager and was never employed by the Bank and also that respondent No.2-workman had himself left the work by submitting that his wife would continue to do the work in place of him; however, I am of the considered view that once the Bank has chosen not to appear before the Tribunal below to controvert the stand/claim of respondent No.2-workman, the stand taken by the Bank in the instant writ petition cannot be considered. Furthermore,

from the stand of the petitioner-Bank in the instant writ petition, the engagement of respondent No.2-workman in the Bank is an admitted fact. Once the stand taken by respondent No.2-workman has gone unrebutted and there being no material on record to show that provisions of Section 25-F of the 1947 Act, have been complied with, in these circumstances, no fault can be found with the findings returned by the Tribunal below.

16. Keeping in view the totality of circumstances, I am of the considered view that the amount of compensation of Rs.1,00,000/- granted to respondent No.2-workman is justified, especially when the workman has rendered service only for 1½ year and nothing has been shown that he was appointed in accordance with the Rules and Regulations of the Bank.

17. In view of the afore-said circumstances, I do not find any merit in these writ petitions. Accordingly, both the writ petitions bearing ***CWP-24811-2015*** titled as ***“Syndicate Bank Versus The Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court-2, Chandigarh and another”*** and ***CWP-19373-2018*** titled as ***“Joginder Singh Versus The Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh and another”*** are dismissed and the Award dated 15.10.2014 passed by the learned Tribunal below is upheld.

18. All pending application/s, if any, shall also stand closed.

19. A photocopy of this order be placed on the file of another connected case.

January 04, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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