

CWP-24592-2016
CWP-26794-2017 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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1. CWP-24592-2016
Decided on : 14.03.2024

Davinder Pal Singh . . . Petitioner(s)
Versus
The Presiding Officer, Industrial Tribunal,
Ludhiana and others . . . Respondent(s)

2. CWP-26794-2017 (O&M)
Jagraon Cooperative Sugar Mills Limited . . . Petitioner(s)
Versus
Davinder Pal Singh and another . . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. H.S. Saggu, Advocate
for the petitioner(s) (in CWP-24592-2016),
for respondent No.1 (in CWP-26794-2017).

Ms. Anamika Sheoran, Advocate for
Mr. Vikas Singh, Advocate
for the petitioner(s) (in CWP-26794-2017) and
for respondent No.2 (in CWP-24592-2016).

SANJAY VASHISTH, J. (Oral)

1. This order shall dispose of aforementioned two writ petitions
i.e. CWP-24592-2016, filed by the workman, and CWP-26794-2017 (O&M)
filed by the Management, as the controversy involved in both the
aforementioned writ petitions is similar.

However, for the purpose of disposal of these writ petitions,
main/common order is being passed in CWP-24592-2016.

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2. Vide award dated 24.08.2016 (Annexure P-2), Reference No.877/2002, raised by the workman – Davinder Pal Singh (petitioner herein), has been answered in his favour.

3. Learned Industrial Tribunal, Ludhiana (in short, ‘learned Tribunal’) held the termination of the workman illegal. However, ordering for reinstatement was not feasible on account of the fact that Mill of the Management, had already been closed down w.e.f. 30th June, 2012. Even the land and machinery of the Mill of the management had also been sold out.

Learned Tribunal also noticed the fact that vide agreement dated 04.12.2012 (Ex.M/2), the land was transferred and subsequently, the residential plots were carved-out there. Relevant finding recorded by the learned Tribunal in the impugned award (P-2), is reproduced here-under:-

“..... As already stated hereinabove, challenging the said order dated 14.10.1993 of this Tribunal, the workman filed CWP No.25635 of 2013 in the Hon’ble High Court, which was allowed and impugned order dated 14.10.2013 was set aside and this Tribunal was directed to dispose of the reference on merits, in accordance with law. So, it is clear that the issue regarding applicability of principle of res judicata and non maintainability of the reference has already been decided. However, it is evidence that challenging dismissal order dated 23.09.1998, the workman had initially filed demand notice dated 6.10.1998 raising an industrial dispute, which was referred to this Tribunal, but the said reference No.1236 of 1999 was dismissed on 31.08.2001 on the basis of statement made by the authorised representative of the

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workman. Thereafter, the workman issued second demand notice dated 2.11.2001, which has been referred to this Tribunal for adjudication. Furthermore, it is evidence that admittedly, the mill of the management has since been closed w.e.f. 30.06.2012. Winding up proceedings of the management were initiated by the Registrar, Cooperative Societies, Punjab, vide order dated 21.03.2005 Ex.M/2. Land and machinery of the mill of the management has since been sold and Ex.M/3 is agreement dated 4.12.2012 regarding the transfer of the land of the mill wherein residential plots are stated to have been curved out. There is no commercial activity in the mill of the respondent since 30.06.2012. The management had provided Voluntary Retirement Scheme dated 29.11.2013 to its employees, a copy of which is Ex.W/9. However, benefit of the said Scheme was not granted to the workman because he had already been dismissed from service w.e.f. 23.09.1998. Keeping in view of these facts and circumstances of these facts and circumstances of the case, I am of the view that although, dismissal order dated 23.09.1998 is illegal and is liable to be set aside but the workman could be reinstated into the service of the management till 29.04.2021 when Voluntary Retirement Scheme Ex.W/9 was issued by the management or 30.06.2012 when the mill of the management was admittedly closed. But the workman issued demand notice dated 2.11.2001, raising an industrial dispute challenging his termination dated 23.09.1998 after a long time. Therefore, I am of the view that

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the workman be granted lump sum compensation amounting to Rs.50,000/- for illegal termination of his services while taking into consideration his wages for the above said period from 23.09.1998 to 30.06.2012 and his issuance of demand notice on 2.11.2001. Accordingly, both these issues are decided in favour of the workman and against the management.”

4. After perusing the award dated 24.08.2016 (P-2) and as per the information provided to the Court by the workman’s counsel, it transpires that no application for recovery of the awarded amount of compensation i.e. Rs.50,000/-, has been moved by the workman till date. However, strangely enhancement of the compensation amount has been sought by him.

5. On the other hand, it is noticed that in the writ petition filed by the Management (CWP-26794-2017) against the awarding of compensation amount of Rs.50,000/-, there is no stay order. Even there is no explanation that as to why no step was taken by the workman for recovery of the already awarded amount of compensation.

6. Taking note of the fact that the Mill was closed down about 12 years back, and all the machinery and land etc. have already been sold out/transferred by creating the third party rights. Thus, there appears to be no purpose in awarding the enhanced amount of compensation. Moreover, the petitioner – workman himself seems to be disinterested in recovering the awarded amount of compensation, by way of filing execution application before the Court concerned.

7. Therefore, for the reasons recorded by the learned Tribunal in the impugned award (P-2), this Court is well satisfied and does not see any

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reason to disturb the findings recorded by it or to enhancement the amount of compensation.

8. Besides, no substantial argument has been raised by the Management in CWP-26794-2017, as to what is the illegality in the award passed by the learned Tribunal and how the amount of compensation i.e. Rs.50,000/-, is inadequate to be paid to the workman by the Management.

Accordingly, both the writ petitions are **dismissed**.

Misc. application(s), if any, also stands disposed of.

(SANJAY VASHISTH)
JUDGE

March 14, 2024

J.Ram

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

Whether Reportable: ~~Yes~~/*No* ✓