



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

219

CWP-3350 of 2014

Date of Decision:23.05.2024

SUB DIVISIONAL ENGINEER

.... Petitioner

Versus

HANSA DUTT PANDEY AND ANR

....Respondents

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Praveen Chander Goyal, Addl. A.G., Haryana.

Mr. Rajiv Sharma, Advocate
for respondent No.1.

SANJAY VASHISTH, J.(Oral)

1. Present writ petition has been filed by Sub Divisional Engineer (being Management), challenging the award dated 10.09.2013 (Annexure P-21), passed by the Industrial Tribunal-cum-Labour Court, Ambala, whereby reference No.119/2011, filed under Section 10 (1) (c) of the Industrial Disputes Act, 1947 (for short, 'the Act of 1947'), has been answered in favour of respondent No.1-Hansa Dutt Panday (workman).

Action of termination of the petitioner-Management has been held to be bad in the eyes of law and accordingly, learned Labour Court held that the workman is entitled for reinstatement with



continuity in service alongwith 50% back wages from the date of termination till the realization of arrears of back wages.

2. Pledged case of the workman was that he was appointed as 'Chowkidar' by Sub Divisional Engineer, PWD (B&R) Provincial Sub Division No.1 w.e.f 24.04.1991 on daily wages basis, however, he was relieved from duty on 11.06.1992 and another Chowkidar, namely, Tek Bahadur was appointed on 18.06.1992 at his place. On filing of the contempt petition before this Court (Punjab and Haryana High Court), he was taken back in service, but later, he was again removed on 11.12.1992 on the ground that the workman is no longer required. Demand notice was issued by the workman on 04.02.1993 and thereafter, the reference was forwarded to the Labour Court for its adjudication.

3. In the written statement filed by the Management, it was pleaded that the workman was appointed on daily wages and was entrusted the job of 'Chowkidar'. It was further pleaded that the workman has not completed 240 working days in the preceding one year of his termination.

4. After pleadings of the parties, vide order dated 20.07.2012, learned Labour Court framed following issues:

"1. Whether the termination of the services of workman is liable to be set-aside being wrong, illegal, null, void etc. and the workman is entitled to reinstatement in service with full back wages and all the benefits including the continuity of service? OPW.

2. Whether the claim statement is not maintainable in the present form? OPM



3. Whether the workman has not come to the court with clean hands and suppressed the true and material facts in this Court:if so its effect.OPM

4. Whether the workman has no cause of action to file the present claim statement:OPM

5. Relief.”

5. Learned Labour Court concluded that the workman has worked continuously for 291 days with the respondent and the said fact has been admitted by the witness of the Management, namely, Sh. R.C. Jain(MW1), Sub Divisional Engineer, PWD, (B&R) , Panchkula in his cross examination.

The relevant and extracted findings recorded by learned Labour Court in paragraph Nos. 10 and 11 of its award are reproduced herebelow:

“10. Hence continuous total working days of the workman Hansa Dutt Pandey are 291 days. MW1 in his cross-examination had admitted that as per the record document Mark-B is correct. MW is the witness of the management. Hence admittedly workman completed the service of 240 days continuously without any break.

11. The respondent Department has stated that Hansa Dutt Pandey has not completed the continuous service of 240 days. Sh. Karmesh Bhardawaj, GP for the State has stated that there is delay in filing the claim statement. Rebutting his arguments Ld. Counsel for the workman has stated that the provisions of Article 137 of Limitation Act. Do not apply in Labour Court as per law laid down by the Hon'ble Supreme Court in case of Ajaib Singh Vs The Sirhind Co-operative Marketing-cum-Processing Service Society Ltd. And another A.I.R. 1999 SC 1351 in which it has been held that the provisions of article 137 of Limitation Act do not apply. Hence, the delay of seven years shown to be



existing and admitted by workman then court can mould the relief of back wages or directing payment of part of back wages. In this case the petitioner has been running from pillar to post in quench of justice. He is illiterate person. Perhaps on the ill advise of his counsel he kept struggling on the point of jurisdiction. In continuation of that legal battle, he has filed the present claim petition and since law of limitation does not apply to labour dispute hence the objection regarding limitation is not maintainable. As per detail of working days the petitioner has completed 291 continuously with the respondent. Therefore, he is entitled for reinstatement with continuity of service and 50% back wages from the date of termination till the realization of arrears of back wages. Therefore, this issue is decided in favour of the Workman.”

6. However, it is also noticed by this Court that the workmen junior to respondent No.1, namely, Raj Kumar, Gobind, Kailash, Amar, Bajrang, Satbir, Joginder and Lakshman are still in service, while the workman has been thrown away from the service illegally, and the said aspect has not been looked into by the Labour Court. Even, the argument that the other persons junior to the workman, namely, Ram Singh, Jaswant Singh, Sanjay, Karam Chand, Bajesh and Saleem etc. were taken back on job after 10.01.1993 has also not been dealt with.

7. After appreciating the evidence and findings of fact recorded by learned Labour Court that workman had worked continuously for 291 working days and in the absence of any evidence that the provisions of Section 25-F of the Act of 1947 were

complied with, this Court is constrained to endorse the view point taken by the Labour Court.

Thus, there being no such reason to cause any interference with the well reasoned observations made by learned Labour Court, **the present writ petition is hereby dismissed.**

May 23, 2024	[SANJAY VASHISTH]
<i>rashmi</i>	JUDGE
Whether speaking/reasoned	yes/no
Whether reportable?	yes/no