



116

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

CWP-17039-2024**Date of Decision:13.08.2024****KISHAN DEV**

..... Petitioner

Versus

**PRESIDING OFFICER, INDUSTRIAL TRIBUNAL CUM
LABOUR COURT, PANIPAT AND OTHERS**

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. G.S. Bajwa, Advocate
for the petitioner.

Mr. Raman Sharma, Addl. AG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 31.01.2024 (Annexure P-2) whereby Labour Court has awarded compensation to the tune of Rs. 75,000/-.

2. Learned counsel for the petitioner submits the petitioner joined as an Assistant Lineman in August' 2016 on DC rate. An FIR No. 110 dated 01.05.2020 u/s 188 IPC and 68 of Punjab Excise Act, 1914 came to be registered against him. On 02.05.2020, he was orally relieved from his duty and not allowed to join back. The respondent relieved him without following rules and regulations of the department. The learned Labour Court has held that termination was in violation of Section 25F of Industrial Disputes Act, 1947, however, instead of reinstating he has been given lump sum compensation.



3. Learned State counsel who on advance notice is present in Court, submits that petitioner was engaged through a service provider and he was not employee of their organization still he has been awarded lump sum compensation of Rs.75,000/-.

4. I have heard the arguments and perused the record.

5. The Labour Court has considered facts and circumstances of the case and held that petitioner was removed from service in violation of Section 25F of 1947 Act and granted compensation to the tune of Rs.75,000/- instead of reinstatement. The relevant extracts of findings of Labour Court are reproduced as below:

“In view of above discussion, it is evident that the claimant while appearing as a witness as CW-1 had admitted in his cross-examination that he used to work with respondent No.3 and even used to take salary also from respondent No.3. The witness admitted that he joined the office of respondents No.1 and 2 through respondent No.3. The witness even admitted that incident dated 01.05.20 when he was caught consuming liquor by SDO Sh. Mohit Dahiya. Perusal of Ex.C-12 which is certificate issued by SDO (OP) S/Divn. UHBVN, Israna dated 28.03.2022 being Memo No.1121 reveals that it was certified by SDO Operation Sub Division, Israna that claimant Krishan Dev worked as Assistant Line Man through Labour Contractor from 03.08.2010 to 30.04.2020. Therefore from the evidence on record, it stands proved that the claimant was working with respondents No.1 & 2 through respondent No.3 i.e. Managing Director Shree Jee Manpower Contractor Pvt. Ltd. IInd Floor, 210-211-A, DLC Center point, Bata Chowk, Sector-II, Faridabad (HR).

18. RW-1 Sh. Raj Singh Manager Shree Jee Manpower Contractor Pvt. Ltd. by filing affidavit Ex.RW1/A has although tried to put the liability on respondents No.1 &



2 for relieving the claimant, yet, RW-1 Raj Singh has admitted in the cross-examination that it is correct that before relieving the claimant respondent No.3 had not conducted any enquiry. Under these circumstances, it is held that claimant was removed in violation of Section 25-F of I.D. Act by respondent No.3 without any notice to pay in lieu of notice and retrenchment compensation. It may be mentioned that claimant worked from 03.08.2010 to 30.04.2020 with respondents No.1 & 2 through respondent No.3 and in view of judgment of Ld. Apex Court. In **Bharat Sanchar Nigam Ltd. v. Man Singh, 2012 (1) SCT 641 (supra)** it is not necessary that relief of reinstatement has to be given as a matter of right. Reliance can also placed upon **Jagbir Singh v. Haryana State Agriculture Marketing Board, 2009 (3) SCT 790 (supra)** under which it has been held that in the recent past, there has been a shift in the legal position and the Court had consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation, even though termination of an employee was in contravention of the prescribed procedure. Compensation instead of reinstatement was held to be the prudent relief to meet the ends of justice. Hence, this Court proposes to Award a compensation of Rs.75,000/- to be provided by respondent No.3 to the claimant within a period of 2 months from the date of publication of the Award, failing which respondent No.3 shall further pay interest 6% per annum from the date of Award till the date of making payment. Hence, this issue is decided in favour of the claimant.

21. In view of my findings upon above-said issues, the claim statement dated 17.03.2021 is hereby allowed to the effect that the claimant is entitled for a compensation of Rs.75,000/- to be provided by respondent No.3 within a period of 2 months from the date of publication of the Award, failing which respondent No.3 shall further pay



interest 6% per annum from the date of Award till the date of making payment. Copy of this Award be sent immediately to Deputy Labour Commissioner, Panipat for information and necessary action. Record of this Court be consigned to the records.”

6. In *Senior Superintendent Telegraph (Traffic), Bhopal vs. Santosh Kumar Seal and others, (2010) 6 SCC 773, Hari Nandan Prasad and another vs. Employer I/R to Management of Food Corporation of India and another, (2014) 7 SCC 190, District Development Officer and another vs. Satish Kantilal Amrelia, (2018) 12 SCC 298, State of Uttarakhand and another vs. Raj Kumar (2019) 14 SCC 353 and Ranbir Singh vs. Executive Engineer PWD (2021) 14 SCC 815* Supreme Court has held that it is neither mandatory nor automatic to reinstate workman who has been retrenched without complying with provisions of Section 25F of 1947 Act. He may be granted compensation.

7. This Court considering the facts that workman was working with management through contractor; length of service; last drawn pay of the workman and compensation granted by Labour Court, does not find any infirmity in the impugned order warranting interference.

8. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

13.08.2024
Ali

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No