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

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CWP-17196-2024
Date of Decision : 24.07.2024

STATE OF PUNJAB AND ANOTHER PETITIONERS

V/S

DHIR SINGH AND ANOTHER RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present :- Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is setting aside of order dated 24.11.2023 (Annexure P-2) whereby Industrial Tribunal, Amritsar has directed the State to pay a sum of Rs.73,166/- to the respondent.

2. The respondent No.1-Dhir Singh joined petitioner on 14.08.1987 as Beldar. His services were terminated on 13.11.2012. He approached Industrial Tribunal which vide order dated 03.06.2016 allowed his petition and directed the management to reinstate him without back wages. He was granted continuity of service. He was directed to report after one month of publication of award in the official gazette. The operative part of award dated 03.06.2016 passed by Industrial Tribunal is reproduced as below :

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“In view of my discussion, made on above issue the reference is answered in favour of the workman and against the managements and the reference is allowed accordingly. Workman is ordered to be reinstated with continuity of service, but without back wages. He will report for his duty with the management department after one month of the publication of this award in the official gazette. Reader of this Tribunal is directed to forward three copies of this Award to Assistant Labour Commissioner/Labour-cum-Reconciliation Officer, Amritsar, as required under section 15 of the I.D. Act read with Notification No. S.O. 66/C.A.14/1947/S.17/2008 dt. 1.10.2008. File be consigned to record room.”

3. The respondent appeared to join his duty, however, he was not permitted and ultimately, was made to join on 22.09.2017. On account of delayed joining, the respondent approached Tribunal in terms of Section 33-C (2) of Industrial Disputes Act, 1947. He prayed for wages for the period he was deprived from job. The Tribunal considered submissions of both sides and found that officials of management during the course of cross-examination accepted that workman reported, however, he was not allowed to join on 03.11.2016. Considering the record, the Tribunal has directed the management to pay a sum of Rs.73,166/-. The relevant extracts of the order dated 24.11.2023 are reproduced as below :

Through RW1 Ravinder Singh, RW2 Kultar Singh, Block Officer, RW3 Jasbir Singh, Forest Range Officer testified to the effect that the applicant has refused to join duties on 03.11.2016 when RW2 Kultar Singh had

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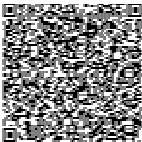


approached applicant to join duties but the truth has come to fore from the cross examination of RW2 Kultar Singh, Block Officer whereby he admitted that "when the workman had gone for joining his duties after passing the award, the departmental authorities said that there is no provisions of joining report of daily wages workers and he has no knowledge whether the workman has sent joining report by registered post on 04.07.2016".

Ex. A3 joining letter along with postal receipts Ex. A4 provide the fact that vide registered post dated 04.07.2016 applicant offered joining report to the managements but the managements did not allow to join duties with effect from 04.06.2016 to 21.09.2017 but later on applicant was allowed to join duties on 22.09.2017 as is evident from the cross examination of RW3 Jasbir Singh, Forest Range Officer.

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With these observations, this application is allowed and respondents are directed to pay Rs.73,166/ to the applicant. In case, respondents, failed to pay the aforesaid amount to the applicant within 2 months, they shall be liable to pay interest to the applicant at the rate of 6% per annum from the date of filing of this application i.e. 05.03.2018 till realization. Reader of this Tribunal is directed to forward a copy of this Order to the Assistant Labour Commissioner/ Labour-cum-Conciliation Officer, Amritsar, as required under section 33-C (2) of the I.D. Act read with Notification No. S.O 66/C. A.14/1947/S.17/2008 dt. 01.10/2008. Copy of this order be also sent to the court of the Ld. Civil Judge (Sr. Division), Amritsar, as required under Section 11 (10) of the I.D.Act. File be consigned to the record room.



4. Mr. Aman Dhir, DAG, Punjab submits that there was no lapse on the part of management still workman has been awarded salary without work. There was no direction in the award dated 03.06.2016 to pay wages in case of delayed joining, thus, Tribunal has wrongly awarded compensation for the period workman was not made to join.
5. I have heard the arguments of State counsel and perused the record.
6. From the perusal of record, it is evident that the Industrial Tribunal vide award dated 03.06.2016 answered the reference in favour of workman. The management was directed to permit him to join. The workman was at liberty to report after one month of publication of award. The workman reported to management, however, he was not allowed to join. In the cross-examination, the officials of management have accepted that workman reported, however, he was not allowed to join.
7. In the backdrop, the management was bound to pay wages for the aforesaid period. The Tribunal has rightly assessed and awarded the back wages. This Court does not find any jurisdictional error or manifest illegality or infirmity warranting interference.
8. In the wake of above discussion and findings, this Court is of the considered opinion that the present petition deserves to be dismissed and accordingly dismissed.

24.07.2024
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(JAGMOHAN BANSAL)
JUDGE

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