



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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1. CWP-5629-2016 (O&M)
Decided on : 16.05.2024

Special Secretary,
Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh and others

... Petitioner(s)

Versus

Presiding Officer,
Central Industrial Tribunal-cum- Labour Court,
Sector 18, Chandigarh and another

... Respondent(s)

2. CWP-5636-2016 (O&M)

Special Secretary,
Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh and others

... Petitioner(s)

Versus

Presiding Officer,
Central Industrial Tribunal-cum- Labour Court,
Sector 18, Chandigarh and another

... Respondent(s)

3. CWP-5756-2016 (O&M)

Special Secretary,
Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh and another

... Petitioner(s)

Versus

Presiding Officer,
Central Industrial Tribunal-cum- Labour Court,
Sector 18, Chandigarh and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Abhinav Chadha, Advocate for
Mr. Vinod Kumar, Advocate
for the petitioner(s) (in all cases).

Mr. Rahul Sharma-I, Advocate
for respondent No.2 (in all cases).

SANJAY VASHISTH, J. (Oral)

1. This common order shall dispose of aforementioned writ



petitions i.e. CWP-5629-2016 (O&M), CWP-5636-2016 (O&M) and CWP-5756-2016 (O&M), filed by the petitioner(s) – Bhakra Beas Management Board, as the controversy involved in all the aforementioned writ petitions is one and same.

2. Petitioner – Bhakra Beas Management Board (BBMB), has filed the aforementioned writ petitions, for setting aside the award(s) dated 30.07.2015 (Annexure P-5), passed by respondent No.1 – Presiding Officer, Central Industrial Tribunal-cum-Labour Court, Chandigarh (for brevity, ‘learned Tribunal’).

Vide the impugned award(s), the Tribunal has held that termination of the services of the workmen/workwoman, is illegal & unjust and in all the three cases, they have been ordered to be reinstated in service, on same terms & conditions, on which, they were working. Further, reinstatement within one month, and payment of arrears of back-wages to the extent of 25%, has been ordered.

2. The required details of all the cases in regard to the workman/workmen, are reproduced here-below in tabulated form:-

Case No.	Name of the Workmen/ Workwomen	Date of Appointment	Date of Termination	Ref. No./ Case ID	Date of Award	Relief Granted
CWP-5269-2016 (O&M)	Ms. Archana Rishi	18.09.2002	14.10.2005	1323/2017	30.07.2015	Reinstatement with continuity in service along with 25% back-wages.
CWP-5636-2016 (O&M)	Satish Kumar	20.06.2001	14.10.2005	1309/2007	30.07.2015	Reinstatement with continuity in service along with 25% back-wages.
CWP-5756-2016 (O&M)	Vinod Kumar	07.07.2003	15.10.2005	1336/2007	30.07.2015	Reinstatement with continuity in service along with 25% back-wages.



3. In all the writ petitions, the material defence taken by the Management before the learned Tribunal in its reply, is that the workwoman/workmen were removed from the service on account of Circular letter dated 14.10.2005, issued by FA & CAO, vide which the services were terminated as their services were no longer required.

For the purpose of deciding the aforementioned writ petitions, the facts and other required particulars are being noticed and referred hereafter from **CWP-5629-2016 (O&M)**, titled as, **“Special Secretary, Bhakra Beas Management Board, Madhya Marg, Sector 19-B, Chandigarh and others vs. Presiding Officer, Central Industrial Tribunal-cum- Labour Court, Sector 18, Chandigarh and another”**. The decision passed therein would be applicable in all other writ petitions (detailed herein-above) also.

4. One Sh. Chander Mohan Rishi, father of the workwoman (respondent No.2 – in CWP-5629-2016), was permanent employee of Punjab State Electricity Board (PSEB), and was working as ‘Senior Assistant’. For the purpose of services, he was allocated to Bhakra Beas Management Board (BBMB). While in service of the BBMB, Sh. Chander Mohan Rishi, expired on 17.05.2002. Thus, workwoman applied for appointment on compassionate ground with the BBMB. She was appointed as ‘Upper Division Clerk (UDC)’ by the Financial Adviser and Chief Accounts Officer, BBMB, Nangal Township, vide letter dated 18.09.2002, with the pay-scale of Rs.4600-7250/-. As per the pleaded case of the workwoman before the learned Tribunal, she joined the services on 18.09.2002 on regular vacant post for 89 days and was allowed to continue up-till 14.10.2005. On issuance of a letter dated 14.10.2005, she was



terminated from her services. In fact, the letter dated 14.10.2005, was published after the letter dated 10.10.2005, issued by the Special Secretary of the Board. It is also pleaded that the order of termination of services of the workwoman, is illegal, against the provisions of the Industrial Disputes Act, 1947 (in short, 'ID Act') and has been passed in violation of the principle of natural justice.

Further pleaded that no reason has been assigned for terminating the services of the workwoman. There is clear violation of Sections 25-F, 25-G and 25-H of the ID Act. Thus, workwoman prayed for reinstatement with all the consequential benefits.

6. On the other hand, in the written statement filed by the Management (BBMB), it is pleaded that the workwoman was not appointed on compassionate ground, but was appointed for 89 days on temporary basis, as per the guidelines issued by the BBMB vide letters dated 24.08.1990 and 21.03.1991.

It is also pleaded that there are different methods for making appointment on compassionate ground to the family members of the deceased Board's employee. Thus, the workwoman cannot claim herself to be employee of the Management (BBMB) on compassionate ground at place of her deceased father.

In addition, substantially it has been pleaded that the workwoman was appointed on contract basis for 89 days, and therefore, in view of letter dated 10.10.2005, her services were terminated, as her services were no more required.

7. After completion of the pleadings on record, respective parties led their evidences, and thereupon, the learned Tribunal, decided the



question in favour of the workwoman (respondent No.2 herein).

8. Before proceeding further, it would be apt to highlight the contents of the letter dated 10.10.2005 and circular dated 14.10.2005.

Contents of letter dated 10.10.2005, issued by the Special Secretary to the BBMB, reads as follow:-

“1. Approval of Chairman, BBMB is hereby conveyed for giving extension in service to the dependents of the deceased PSEB employees (11 Nos. as per list enclosed) upto 15.10.2005, notwithstanding the dated on which their previous spells have expired.

2. The services of above employees shall be terminated by the respective Head of Deptt. by fulfilling the requirement of section 25F of ID Act. By giving each of them retrenchment compensation (which shall equivalent to 15 days average pay for every completed year of continuous service or any part thereof in excess of six months) and one month's wages in lieu of notice.”

Contents of circular dated 14.10.2005, vide which, services of the workman/workmen were terminated:-

“(1) You were appointed on purely temporary (89 days) basis as UDC vide this office letter No.3556 dated 18.9.2002.

(2) In view of Special Secretary, BBMB, Chandigarh letter No.8648-52/R&R/329/R-2/L-37/L dated 10.10.2005 your services are terminated w.e.f. 14.10.2005 (AN) under Section 25F of I.D. Act.

(3) A bank draft of Rs.41309-00 bearing No.306111 dated



13.10.2005 on account of following due as admissible under I.D. Act is enclosed.

- (i) One month pay in lieu of one month notice pay Rs.9170-00 and pay dues for the period from 22.8.2005 to 14.10.2005 Rs.16268-00.*
- (ii) Compensation equivalent of 15 days wages for each completed year of service Rs.15871-00.”*

9. From the contents of the aforementioned two letters, it is clear that it is the Special Secretary of the BBMB, who has conveyed through letter dated 10.10.2005, the approval of the Chairman of BBMB for extending the service to the dependents of the deceased PSEB employee (11 numbers as per the list enclosed thereto), upto 15.10.2005. It also notified the period on which, their spell would expire, and the termination should be done after meeting out the requirement of Section 25-F of the ID Act.

Resultantly, in compliance thereto, vide another letter dated 14.10.2005 appointments were ordered to be terminated by saying that the appointments were purely on temporary basis (89 days).

10. There is no dispute that the workwoman and the workmen were continued in service for more than a year. Workwoman – Archana Rishi, served the BBMB for about 3 years, workman – Satish Kumar, served the BBMB for about 4 years and 4 months and workman – Vinod Kumar, served the BBMB for about 2 years and 3 months. Meaning thereby, period of 89 days was continued time to time after giving appointments.

11. In the letter dated 10.10.2005, it has been specifically mentioned that the services of the employees shall be terminated by fulfilling the requirement of Section 25-F of the ID Act, and by giving each



of them retrenchment compensation. However, the termination order does not find any mention of the reason, whereas, under Section 2(oo) of the ID Act, the definition of the retrenchment requires a reason for retrenching a workman from the service. Neither in the letter dated 10.10.2005, nor in the circular dated 14.10.2005, any reason for retrenchment is mentioned. Therefore, the learned Tribunal also concluded that such a retrenchment without any reason, is bad in law. The workwoman was allowed to complete more than 3 years of continuous service and said fact is not controverted in the written statement.

Once the service, even on the contract basis, is extended up-till the period of one year. Since, the case of the workwoman is that she was appointed on compassionate ground, she was required to be considered in service at equal status, even there is no denial to the total service period rendered by the workwoman to the BBMB.

12. Findings recorded by learned Tribunal in this regard, is reproduced here-under:-

“ The workman was to be given three spells of service on compassionate grounds but she was given extension in service from time to time and allowed to complete more than three years of service. The workman specifically pleaded in the statement of claim that she joined the service on 18.9.2002 and continuously remained in service for three years. This fact is not controverted by the management in written reply.

When the workman continuously worked for one year, the protection of Section 25F of the Act became available to her, and giving extensions, as per the policy laid down vide



above said letter is only a surplusage. Similarly by mentioning the words on “Contract Basis” in appointment letter, also loose its importance. It seems that the management was aware of this and on that account the services of the workman were ordered to be ‘retrenched’, and retrenchment is illegal as discussed earlier.

Since the workman was appointed legally as discussed, and his retrenchment is illegal, she is to be reinstated in service.”

13. Counsel for the petitioner(s) – BBMB (Management) while arguing before this Court, submits that the workwoman was, in fact, employee of Punjab State Electricity Board (PSEB), because, her father was originally PSEB employee, but was allocated the services of the BBMB. Therefore, the claim of the workwoman, if any, would also lie against PSEB, and not against the BBMB.

14. To examine the said aspect, this Court went through the appointment letter dated 3556/18.09.2002 (Annexure P-1), issued by the Financial Adviser & Chief Accounts Officer, Bhakra Beas Management Board, Nangal Township. The letter nowhere states that the appointment is being given subject to the approval of PSEB. Nowhere, there is a pre-condition that the workwoman, would not be able to claim in the future that the appointment is exclusively at the instance of BBMB. Thus, the argument of the counsel for the petitioner – BBMB (Management) is misplaced and misconceived.

15. I have gone through all the reasons assigned in the impugned award dated 30.07.2015 (Annexure P-5) passed by the learned Tribunal, and



do not find any reason to deviate from the view point taken by it.

Thus, while maintaining the impugned award dated 30.07.2015 (P-5), the present writ petition(s) is **dismissed**.

Resultantly, writ petitions filed by the petitioner – BBMB (Management) *qua* the other workmen also stand dismissed.

Pending civil misc. application(s), if any, also stands disposed of.

(SANJAY VASHISTH)
JUDGE

May 16, 2024
J.Ram

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