

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

205

CWP-8114-2014 (O&M)

Date of Decision : 20.09.2024

DIWAN CHAND (SINCE DECEASED) THROUGH LRS

.... PETITIONER

V/S

PRESIDING OFFICER, INUSTRIAL TRIBUNAL, PATIALA & ORS.

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Jasbir Mor, Advocate and
Mr.Surender Singh, Advocate
for the petitioner.

Mr. Sanjeev Sharma, Advocate
for respondents No. 2 to 4.

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 08.01.2014 (Annexure P/1) whereby Labour Court has rejected his claim under Section 33-C(2) of Industrial Disputes Act, 1947 (for short 'ID Act').

2. The petitioner-workman was working as Chowkidar with respondent-Punjab Agricultural University, Ludhiana. He was terminated on 11.01.1996. On his application, a reference came to be made to Labour Court which vide award dated 01.08.2002 ordered to reinstate him with continuity of service and back wages. He came to be reinstated



by respondent along with continuity of service and back wages. The respondent calculated back wages on the basis of last drawn salary of the workman. He was reinstated in view of order dated 01.08.2002. He preferred an application under Section 33-C(2) of ID Act claiming a sum of Rs.29,151/- along with interest. The said application came to be partly allowed vide order dated 08.01.2014 passed by Labour Court. He filed another application under Section 33-C(2) of ID Act claiming higher amount of salary for the period he was out of service. The Labour Court vide order dated 08.01.2014 dismissed his application on the ground that application under Section 33-C(2) of ID Act is a sort of execution and in the award whereby the petitioner was ordered to be reinstated, there was no direction to pay back wages at prevailing rate. There was no order to reinstate with consequential benefits. There was order only to reinstate with back wages and continuity of service.

3. Mr. Jasbir Mor, Advocate submits that Labour Court has wrongly rejected claim of petitioner. He was reinstated with back wages, thus, respondent was bound to pay back wages at revised rates, i.e., rate applicable during the period he was out of service.

4. Mr. Sanjeev Sharma, Advocate submits that there is no jurisdictional error or factual infirmity in the impugned order. Labour Court in its award dated 01.08.2002 has not ordered to pay back wages at rates applicable during the period of termination, thus, respondent was bound to calculate wages on the basis of last drawn salary. In any case, application under Section 33-C(2) of ID Act was not maintainable.

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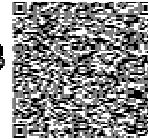
5. I have heard the arguments of counsel for the parties and perused the record.

6. The findings recorded by Labour Court in the impugned order are reproduced as below :

“As observed earlier, in award Ex. W2, the workman is held entitled to full back wages and the same only mean full back wages last drawn and he is not entitled to full back wages with consequential relief” and therefore, he is not entitled to wages which were revised by the Govt. of Punjab from time to time, after the date of last drawn by the Govt. of Punjab from time to time, after the date of last drawn wages of the workman. Since the wages at the rate of last drawn wages have already been paid to the workman, and he received the same without any objection, in earlier application filed under section 33-C(1) of the I.D. A. 1947 and also issued receipt Ex. M1 therefore. he is not entitled to arrears of wages at the rate of minimum wages revised by the Punjab Government from time to time.

19. Therefore, in view of the above discussion, it is held that the applicant is not entitled to receive the amount as claimed in the application and as the applicant has no existing right to file the application, the same is not maintainable. Accordingly, issue no.1 is decided against the applicant and in favour of the respondent and issue no. 3 is answered against the respondent and in favour of the applicant issue no.2 is answered in favour of the respondent and against the applicant.

20. In the light of my findings regarding above noted application is dismissed.



File be consigned to the record room.”

7. From the perusal of order dated 01.08.2002 and impugned order, it is evident that there was no direction by Labour Court to pay wages at the rates applicable during the period the petitioner was out of service. He had received back wages on the basis of last drawn salary. He had not worked during the said period still he was awarded full back wages as well as continuity of service. Despite getting full back wages, he had tried to get wages at revised rates which were applicable during the period he was out of service. There was no such direction in award dated 01.08.2002, thus, by impugned order, Labour Court has rightly dismissed application of the petitioner under Section 33-C(2) of ID Act.

8. Dismissed.

9. Pending miscellaneous application(s), if any, shall also stand disposed of.

20.09.2024

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(JAGMOHAN BANSAL)
JUDGE

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