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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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1. CWP-9970-2016
Decided on : 21.03.2024

General Manager,
The Punjab Small Industries and Export Corporation Ltd.
... Petitioner(s)
Versus
Satnam Singh and others
... Respondent(s)

2. CWP-16993-2015
Satnam Singh
... Petitioner(s)
Versus
The Presiding Officer, Industrial Tribunal,
Amritsar and others
... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Vikas Chatrath, Advocate,
Ms. Tanya Sehgal, Advocate and
Mr. Abhishek Singla, Advocate
for the petitioner(s) (in CWP-9970-2016),
for the respondents (in CWP-16993-2015).

Mr. Amarjit Singh, Advocate
for the petitioner(s) (in CWP-16993-2015) and
for respondent No.1 (in CWP-9970-2016).

SANJAY VASHISTH, J. (Oral)

1. This order shall dispose of aforementioned two writ petitions
i.e. CWP-9970-2016, filed by the workman, and CWP-16993-2015 filed by
the Management, as the controversy involved in both the aforementioned
writ petitions is one and same.

However, for the purpose of disposal of these writ petitions,

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main/common order is being passed in CWP-9970-2016.

2. Vide award dated 01.04.2015 (Annexure P-3), Reference No.85 of 2008, raised by the workman – Satnam Singh (respondent No.1 herein), has been answered partially in his favour.

3. Facts pleaded in the demand notice as well as in the statement claim filed by the workman are that he was working as Mali-cum-Beldar since 01.11.1995 at the monthly salary of Rs.1200/- p.m. The management has terminated the services of the workman on 06.10.1996 without any notice, charge-sheet or enquiry, which is not only wrong and illegal but also in violations of the provisions of Section 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 (for brevity, 'ID Act'). Thereafter, workman moved application for reinstatement before the Labour Inspector Grade-I on 02.12.1996, however, same failed to yield any result. Even the management has not paid the salary to the workman for the period w.e.f. 01.10.1996 to 30.10.1996. Workman visited many times to the office of the Management for his reinstatement, however, each time, they were lingering the matter on one pretext or the other. However, the juniors to the workman have been retained by the Management, and the said action of the management an outcome of unfair labour practice. Lastly, by way of reference workman approached to the learned Labour Court for his reinstatement with continuity of service with full back-wages along with interest.

3. In the written statement filed by the Management, a preliminary objection regarding the maintainability of reference and barred by limitation was raised. It is pleaded by the workman that he was terminated from services on 08.11.1996, whereas, he stopped reporting for duty w.e.f. 06.10.1996 and abandoned his job. Besides, it is also stated that the

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management is a corporate body, and it can only be impleaded in the name of its Principal Officer i.e. Chariman-cum-Managing Director, the same has not been done in the present case.

Besides, on merits, it is stated that on 05.10.1996 workman created a drama during officer hours, by pretending that he had a snake bite on his thumb. On this, concerned S.D.E. immediately deputed the other employee Mukhtiar Singh with the workman for medical treatment. However, later on, after examining the workman, it was known that it was not a case of snake bite, and workman has consumed liquor heavily. Hearing this, workman started laughing and said that he befooled the staff and officers of the management. Further stated that from 06.10.1996, the workman did not report for duty out of shame and abandoned his job. Thus, the services of the workman were never terminated, rather, the workman came to receive his salary for five days of October, 1996, which he received in November, 1996 along with other workmen. Even the workman also did not insist on joining his duties back, despite asking by the officers of the management.

It is also stated by the management in written statement that neither the workman is entitled for any relief, nor the management has violated any provision of ID Act, as the workman himself abandoned his job. Thus, it is prayed that management's alternative plea be accepted to the effect that the workman committed mis-conduct of consuming liquor while on duty, committed disorderly behaviour during working hours, caused nuisance and mis-representation, thereby, showing disrespect and insubordination to his superiors and remaining absent from duty w.e.f. 06.10.1996, without any sufficient reason or cause. Accordingly, while

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denying all other facts of the demand notice as well as of the statement of claim, management prayed for dismissal of reference.

4. After considering the documents and evidence available on record, learned Tribunal observed that in cross-examination, the witness of the management i.e. Sarabjit Singh, Assistant Engineer (MW1), stated that services of the workman were terminated on 06.10.2016 without any notice, charge-sheet or enquiry. He also admitted that medical examination of the workman was not conducted for proving that he had consumed liquor. Besides, he has admitted that workman had continuously worked w.e.f. 01.11.1995 to 05.10.1996, thus, in cross-examination, it has clearly come out that workman had worked for more than 240 days in a year. Although, no appointment letter is available on the file to show that nature of appointment was casual, temporary or of permanent nature. Further observed that though the factum of continuous service w.e.f. 01.11.1995 to 05.10.1996 has been established, but the workman himself admitted that his work was temporary in nature, thus benefit of reinstatement cannot be granted to him, but no notice was given to him before his removal, thus, the removal of the workman is illegal.

5. For convenience, relevant findings recorded in paragraph Nos. 12 & 13 in the impugned award, are reproduced here-under:-

“12. To prove this case on behalf of workman, WW1 Satnam Singh tendered his affidavit Ex.W.1, wherein he has stated that he joined the management department on 1.11.1995 as Mali-cum-Beldar at the salary of Rs.1200/- per month. He was removed by the managements from his service on 6.10.1996 without any notice, charge-sheet or enquiry. He moved on application for reinstatement before Labour Inspector Grade-I on 2.12.1996, but no relief was given to him. He has also not been paid salary from 1.10.1996 to 5.10.1996. In cross-examination, this witness ha stated that he has not received any appointment letter. He has previously filed a suit which was

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withdrawn. He has admitted that he was not a permanent employee and was working on daily wages.

13. *On behalf of the managements, MW1 Sarabjit Singh, Assistant Engineer, tendered his affidavit Ex.R1, wherein he has stated that workman has stopped reporting for duty w.e.f 6.10.1996 and he abandoned his job. His services were never terminated on 8.11.1996. The management is body corporate and can only be impleaded in the name of Principal Officer i.e., Chairman-cum-Managing Director. On 5.10.1996, the workman played a drama during working hours on the pretext that he had a snake bite on his thumb. The concerned Sub Divisional Engineer immediately deputed another employee i.e., Mukhtiar Singh for medical treatment of the workman. The workman was drunk at that time. He was taken to Dr. Bant Singh of Punjab Medical Store. Thereafter, he was taken to Village Hansawala to a person, who used to treat the patients of snake bite, but it was found that it was not a case of snake bite. On the contrary, it was found that workman has consumed liquor. On 6.10. 1986, the workman did not report for duty and abandoned his job. In the cross-examination, he has stated that the services of workman were terminated on 6.10.2006 without any notice, charge-sheet or enquiry. He has admitted that no medical of the workman was conducted to prove that he has consumed liquor. He has admitted that the workman has continuously worked from 1.11.1995 to 5.10.1996. In the cross-examination, it has clearly come on the file that workman had worked for more than 240 days in a year. Although, there is no appointment letter on the file to show the nature of appointment that whether it was casual, temporary or of permanent nature, but this fact is proved that he has worked continuously from 1.11.1995 to 5.10.1996. As the workman has himself admitted that his work was temporary in nature, so he cannot be reinstated but as no notice before his removal was given, so his removal is illegal. It is clearly held by Hon'ble Supreme Court of India in the authority reported in 2012 L.L.R. page 1 (Bharat Sanchar Nigam Ltd., V. Man Singh) that if relief of reinstatement cannot be said to be justified and instead monetary compensation would meet the ends of justice. In view of the authority of the Hon'ble Supreme Court of India cited as Bharat Sanchar Nigam (supra), the workman is entitled to lump sum compensation of Rs.35,000/-. He is also entitled to the interest at the rate of 9% per annum from 2.5.2008 i.e., the date of demand notice filed by the working till realization. Accordingly, both issues No.1 and 2 are held partly in favour of the workman and against the management."*

6. Relying upon the ratio of judgment passed by the Division Bench of this Court (Punjab and Haryana High Court) in ***LPA No.1334 of 2009***, titled as, ***"Deputy General Manager (Telecom), Bharat Sanchar***

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Nigam Limited, Sangrur vs. Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh and another

decided on **30.01.2014**, and this Court earlier in time in **CWP-10925-2013**, titled as **BCH Electric Limited vs Presiding Officer, Labour Court-II, Faridabad and another** decided on **20.02.2024**, I am of the view that a 16 years old dispute between the parties should be settled, by modifying the relief clause of the award, by directing Management to pay one time full and final lump-sum amount of compensation, to the workman.

7. For the sake of convenience, relevant paragraph No.14 of the impugned award, under the relief clause, is reproduced as under:-

“Relief.

14. In view of the discussion made on above issues, reference is answered partly in favour of the workman and against the managements. The managements are directed to make the payment of lump sum compensation of Rs.35,000/- to the workman along with interest at the rate of 9% per annum from the date of demand notice i.e., 2.5.2008 till its payment within two months 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.”

8. By noticing the fact that respondent No.1 – workman had worked in the office of the petitioner – Management from 01.11.1995 to 05.10.1996 i.e. for about 11 months, and the dispute being more than a decade old, this Court deems it appropriate to direct the petitioner – Management to pay a lump-sum amount of Rs.1.00 lakh as compensation to respondent No.1 – workman, within a period of three months from today i.e. on or before 21.06.2024, failing which, the petitioner – Management would be liable to pay the lump-sum amount of compensation of Rs.1.00 lakh

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along with interest @ 6% per annum, from 22.06.2024 onwards.

9. Besides, no substantial argument has been raised by the workman in CWP-16993-2015, as to what is the illegality in the award passed by the learned Labour Court, vide which, the reference was answered partially in favour of the workman.

In view of above, the award dated 01.04.2015 (P-1) is modified to above extent and present writ petition is partly allowed.

Writ petitions stand **disposed of**, in the above terms.

Misc. application(s), if any, also stands disposed of.

(SANJAY VASHISTH)
JUDGE

March 21, 2024

J.Ram

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

Whether Reportable: ✓ Yes/~~No~~