

2024.PHHC:102046



CWP-19018-2024

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

125

CWP-19018-2024
Date of Decision : 08.08.2024

SUKHWINDER KUMAR

.... PETITIONER

V/S

M/S A.V. INDUSTRIES AND ANOTHER

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present :- Mr.Ravi Gakhar, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of award dated 03.12.2019 (Annexure P-1) whereby Industrial Tribunal, Patiala has awarded compensation of Rs.25,000/- to him.

2. The petitioner claims that he joined respondent on 14.01.2014 and he was illegally terminated on 29.11.2017. He served a demand notice on 23.12.2017. The matter was referred to the Tribunal in terms of Section 10 of Industrial Disputes Act, 1947. The Tribunal by impugned order has held that the petitioner is not entitled to reinstatement, however, he has been awarded compensation of Rs.25,000/-.



3. Mr. Ravi Gakhar, Advocate submits that impugned award was passed on 03.12.2019. He preferred CWP before this Court on 13.03.2020. An objection was raised by Registry on 16.08.2020. He filed fresh petition on 06.08.2024. The delay has occurred on account of Covid-19 and as per judgment of Supreme Court in **Suo Motu, Writ Petition (Civil) No.3 of 2020**, the period of two years starting from 15.03.2020 to 14.03.2021 should be ignored.

The impugned order needs to be modified to the extent of the amount of compensation. The Tribunal has wrongly assessed compensation to the tune of Rs.25,000/- whereas it should be more than Rs.50,000/-.

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

5. The Tribunal has recorded categoric findings to the effect that there was non-compliance of provisions of Section 25 F of the Act on the part of management, however, reinstatement is not automatic. The Tribunal as per its wisdom has assessed amount of compensation to the tune of Rs.25,000/-. The relevant extracts of the findings are reproduced as below:

“20. *However, non-compliance of the provisions of Section 25-F of the Industrial Disputes Act-1947 although may lead to the grant of relief of reinstatement with full back wages and continuity of service in favour of the retrenched workman, the same would not mean that such relief is to be granted automatically or as a matter of course, as has been held by the Hon'ble Supreme Court in Haryana State Electronics Development Corporation Ltd, Vs.*



Mamni, 2006(2) LLJ Page. 744 (SC). In the said case Hon'ble Supreme Court modified the impugned Award by directing that the workman shall be compensated by payment of Rs.25000/- in stead of order of reinstatement with back wages.

21. *In view of the above discussion and case law referred above, the workman is held entitled to compensation only in place of order of reinstatement with back wages. Since the workman has worked with the management from 14-01-2014 to 28-11-2017 and taking into consideration that he was drawing Rs.7250/- P.M. as salary at the time of termination of is services, he is held entitled for a compensation worth Rs.20,000/- from the respondents, in place of order of reinstatement with back wages.*

22. *Since the workman raised industrial dispute by way of filing demand notice and after failure of conciliation proceedings, the dispute was referred to this Court by the Appropriate Government for adjudication, the reference is maintainable.*

23. *Accordingly, issue No.1 is answered in favour of the workman, issue No.2 is answered against the workman and issue No.3 is answered against the respondent.*

RELIEF

24. *In the light of my findings noted above, this reference is hereby answered in favour of workman and respondent is directed to compensate the workman with Rs.20,000/- (Rupees twenty thousand only). The workman is also held entitled to further compensation of Rs.5000/- on account of cost of litigation expenses. Respondent is directed to make*



payment of the awarded amount to the workman within 45 days of the publication of the award, failing which the workman shall be entitled to the awarded amount along with interest @ 6% per annum till realization.”

6. The petitioner is contesting the amount of compensation. The petitioner, as per his averments, had worked with respondent for 2½ years and was getting salary of Rs.7,000/- per month.

7. Considering the length of service and amount of salary, the amount awarded by Tribunal is not so meager that this Court should exercise its discretionary writ jurisdiction.

8. The petitioner has conceded that writ petition, at the first instance, was filed in 2020 and thereafter, it has been filed in 2024. He filed petition in 2020, thus, he cannot claim benefit of Covid-19 and in any case, there is no justification for delay of two years even after expiry of Covid period.

9. In the wake of above findings and discussions, this Court is of the considered opinion that the present petition deserves to be dismissed and accordingly dismissed on merits as well as delay.

(JAGMOHAN BANSAL)
JUDGE

08.08.2024

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