



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

212

(1)

LPA-2115-2016 (O & M)

Date of Decision: 25.07.2024

Ajay Pal

....Appellant

Versus

The State of Haryana and others

....Respondents

(2)

LPA-2173-2016 (O & M)

Date of Decision: 25.07.2024

Mahabir Sharma (since deceased) through LRs

....Appellants

Versus

The State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Vijay Lath, Advocate and
Mr. Ajay S.Dhiman, Advocate
for the appellants.

Mr. Naveen S.Bhardwaj, Addl. Advocate General, Haryana.

None for respondents No.3 and 4.

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. Both the Letters Patent Appeals are being decided by common
judgment.

2. Both the appeals assail the judgment dated 17.08.2016 passed by the learned Single Judge while exercising writ as well as supervisory jurisdiction where challenge has been made to the award dated 23.07.2012 (Annexure P-7) in LPA-2115-2016 and award dated 22.07.2010 (Annexure P-8) in LPA-2173-2016 of the Labour Court-I, Gurgaon, where the reference as regards the dispute of unlawful termination was rejected. The facts are taken from LPA-2115-2016.

3. The learned Single Judge has though upheld the award of the Labour Court but has held that looking to the facts and circumstances of the matter, the workman is entitled to compensation of Rs.1 lakh in lieu of re-instatement.

4. Considering the fact that the workman had put in daily wage services only for 3 years and 5 months, this Court declines to interfere with the order of the learned Single Judge.

5. The learned counsel for the appellant has relied upon the judgment of Apex Court (2010) 3 SCC 637 titled as ***Krishan Singh v/s Executive Engineer, Haryana State Agricultural Marketing Board, Rohtak (Haryana)***. In the said verdict, the Apex Court has laid down that as and when termination of service of the workman is categorized as unlawful retrenchment the ordinary consequence that follows is of re-instatement with or without back wages, as the case may be. However, in recent times in (2014) 7 SCC 177 titled as ***Bharat Sanchar Nigam Limited vs. Bhurumal;***

(2019) 14 SCC 353 titled as *State of Uttarakhand and another vs. Raj Kumar*; (2021) 12 SCC 466 titled as *Ram Manohar Lohia Joint Hospital and others vs. Munna Prasad Saini and another*; (2021) 14 SCC 815 titled as *Ranbir Singh vs. Executive Engineer PWD* and (2021) 20 SCC 633 titled as *Madhya Bharat Gramin Bank vs. Panchamlal Yadav*, the Apex Court has taken a different view, in as much as in cases where workman was adhoc or daily wager or temporary employee holding no civil post and was not substantively appointed and had put in a short tenure of service before being terminated, the aforesaid course ordinarily adopted was deviated from by holding that in lieu of re-instatement, compensation can be awarded in the interest of the workman as well as the employer. The relevant portion of the said verdict of the Apex Court is reproduced below for ready reference and convenience:-

“30. In this judgment of Shankar Shetty, this trend was reiterated by referring to various judgments, as is clear from the following discussion: (SCC pp.127-28, paras 2-4)

2. “Should an order of reinstatement automatically follow in a case where the engagement of a daily wager has been brought to an end in violation of Section 25-F of the Industrial Disputes Act, 1947 (for short ‘the ID Act’)? The course of the decisions of this Court in recent years has been uniform on the above question.

3. In Jagbir Singh v. Haryana State Agriculture Mktg. Board, delivering the judgment of this Court, one of us (R.M.Lodha, J.) noticed some of the recent

decisions of this Court, namely, U.P.State Brassware Corpn. Ltd. V. Uday Narain Pandey, Uttaranchal Forest Development Corpn. V. M.C. Joshi, State of M.P. v. Lalit Kumar Verma, M.P.Admn v. Tribhuban, Sita Ram v. Moti Lal Nehru Farmers Training Institute, Jaipur Development Authority v. Ramsahai, GDA v. Ashok Kumar and Mahboob Deepak v. Nagar Panchyat, Gajraula and stated as follows: (Jagbir Singh case, SCC pp.330 & 335, paras 7 & 14)

7. It is true that the earlier view of this Court articulated in many decision reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

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14. It would be, thus, seen that by a catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should

not, however, automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily wager who does not hold a post and a permanent employee.

4. *Jagbir Singh has been applied very recently in Telegraph Deptt. V. Santosh Kumar Seal, wherein this Court stated: (SCC p.777, para 11)*

11. In view of the aforesaid legal position and the fact that the workmen were engaged as daily wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monetary compensation would subserve the ends of justice.”

6. Consequent upon the above, no case for interference is made out.
The appeal stands dismissed.

(SHEEL NAGU)
CHIEF JUSTICE

(VIKAS SURJ)
JUDGE

July 25, 2024
Varinder

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No