

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. LPA-1827-2018
Reserved on: 09.09.2024
Date of decision: 06.11.2024

VISHAL ..Appellant
Versus
THE PRESIDING OFFICER AND ANOTHER ..Respondents

2. LPA-1828-2018

AMIT KUMAR ..Appellant
Versus

THE PRESIDING OFFICER AND ANOTHER ..Respondents

3. LPA-1831-2018

SMT. MAINA ..Appellant
Versus

THE PRESIDING OFFICER AND ANOTHER ..Respondents

4. LPA-1832-2018

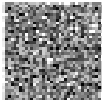
JITENDER ..Appellant
Versus

THE PRESIDING OFFICER AND ANOTHER ..Respondents

5. LPA-1833-2018

DEVENDER ..Appellant
Versus

THE PRESIDING OFFICER AND ANOTHER ..Respondents



6. LPA-1834-2018

SANDEEP ..Appellant
Versus
THE PRESIDING OFFICER AND ANOTHER ..Respondents

7. LPA-1835-2018

VINOD ..Appellant
Versus
THE PRESIDING OFFICER AND ANOTHER ..Respondents

8. LPA-21-2019

SANJAY ..Appellant
Versus
THE PRESIDING OFFICER AND ANOTHER ..Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

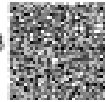
Present: Mr. Sushil Jain, Advocate
for the appellant(s).

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

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SHEEL NAGU, CHIEF JUSTICE

1. With the consent of learned counsel for parties, eight connected Letter Patent Appeals involving identical issue shall stand disposed of by common order.
2. These instant intra Court appeals assails the order of learned Single Judge passed while exercising writ/supervisory jurisdiction under Article 226/227 of the Constitution of India, though upholding the award of the Labour Court dated 30.05.2014 (Annexure P-4) awarding compensation of Rs.30,000/- in lieu of reinstatement, to the extent of directing that the quantum of compensation would be to the tune of Rs.30,000/- per annum for each completed year of service or part thereof, to be paid within a period of



per annum from the date of order of learned Single Judge.

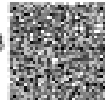
3. Learned counsel for rival parties have been heard at length on the question of final disposal.

4. Learned counsel for appellant-workman has argued only on the question of quantum of compensation awarded by learned Single Judge in lieu of reinstatement by contending that the same is insufficient.

5. The skeletal facts reveal that the workman was engaged temporarily as a '*Safai Karamchari*' on 01.04.2010 and discharge his duties as such till 13.07.2011.

6. The tenure of service of workman was only about 15 months and 2 weeks. Though, the Labour Court as well as learned Single Judge found the provisions of Section 25F of the Industrial Disputes Act, 1947 (in short '1947 Act') having been breached since neither termination notice nor retrenchment compensation was afforded to the workman despite completion of 240 days of continuous service in the last preceding 12 months. Thus, this Court does not find any illegality or impropriety in the findings rendered by the Labour Court as well as learned Single Judge that the termination fell within the definition of unlawful retrenchment thereby entitling the workman to relief.

7. It is trite law that mere successful proving breach of Section 25F of the 1947 Act does not by itself entitle the workman to reinstatement with backwages as of right. Since the last 10 to 15 years, the law in this regard has undergone change. The compensation in lieu of reinstatement is being repeatedly adopted by the Courts especially where reinstatement would neither be in the interest of workman nor the employer. Various factors such as 'nature of employment', 'tenure of employment rendered by the workman' etc. are to be gone into to decide as to whether the alternative



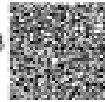
course of compensation in lieu of reinstatement is to be adopted or not. However, in recent times in *(2014) 7 SCC 177* titled as *Bharat Sanchar Nigam Limited vs. Bhurumal*; *(2019) 14 SCC 353* titled as *State of Uttarakhand and another vs. Raj Kumar*; *(2021) 12 SCC 466* titled as *Ram Manohar Lohia 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 ad hoc 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 reinstatement, 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 decisions 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.

* * *

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, be 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.

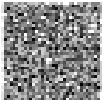
4. Jagbir Singh has been applied very recently in Telegraph Deptt. V. Santosh Kumar Seal, wherein this Court stated: (SCC p.777, para 11)

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.”

8. Testing the aforesaid factual matrix on the anvil of law laid down by the Apex Court. It is obvious that the workman completed only about 15 months of service under the employer. The nature of employment was also temporary and not permanent/regular.

9. Thus, to balance the equities between employer and the workman especially in the backdrop of 13 to 14 years having elapsed since

the termination of workman. It was rightly held by the Labour Court as well



as learned Single Judge that the alternative course of compensation in lieu of reinstatement ought to be adopted.

10. Coming to the aspect of quantum of compensation awarded, it is seen that learned single Judge modified the award passed by the Labour Court of lump-sum Rs.30,000/- to the workman, to the extent of directing that the workman shall be entitled to Rs.30,000/- for each completed year of service or part thereof. The facts reveal that the workman completed 15 months and 2 weeks before being terminated. Thus, if the compensation is calculated based on the formula prescribed by learned Single Judge, then it would come to about Rs.37,000/- or Rs.38,000/-.

11. Though, this Court is of the considered view that no fault can be found with the findings rendered by the Labour Court as well as learned Single Judge but considering the fact that the workman had to wait for nearly 13 to 14 years to get justice, this Court deems it appropriate to enhance the quantum of compensation to Rs.50,000/-, which shall be awarded to the workman within a period of three months, failing which the same would carry interest at the rate of 9% per annum from the date of order of learned Single Judge i.e. 06.10.2015.

12. With these observations, the appeals stand disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

06th November, 2024
Ayub

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