

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

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LPA-2196-2023 (O&M)

Date of decision: 05.01.2024

BOPARAI'S MARTIAL SECURITY PRIVATE LIMITED**...Appellant****VERSUS****JASDEV SINGH AND OTHERS****...Respondents**

**CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Amaninder Preet, Advocate
for the appellant.

DEEPAK MANCHANDA, J.(ORAL)

(1) The present intra Court appeal has been filed by assailing the judgement dated 21.11.2023 in CWP-8671-2020 titled *Jasdev Singh Vs. HDFC Bank Limited and others* filed by respondent No.1 seeking quashing of the award dated 06.11.2019 (Annexure P-1) passed by the Presiding Officer, Industrial Tribunal, Patiala whereby the reference was answered in favour of respondent No.1 by granting compensation, amounting to Rs.35,000/- including Rs. 5,000/- as litigation expenses.

(2) Learned Single Judge vide judgment dated 21.11.2023 disposed of the writ petition by enhancing the compensation amount from Rs.35,000/- to Rs. 2 lakhs and directions were issued to present appellant to pay the enhanced amount of compensation to respondent No.1 within a period of 03 months from the date of receipt of production of the certified copy of the order and in case of failure on the part of respondent No.1

would be entitled to claim simple interest at the rate of 6% per annum till

the realization of the amount. Aggrieved by the same, the appellant has preferred the present intra Court appeal.

(3) Brief facts emanated from the pleadings of the case are that respondent No.1 joined the appellant through one Boparai's Martial Security Private Limited as a Gunman on 08.10.2012 and his last monthly drawn salary was Rs.7,165/-. It was claimed by respondent No.1 that he worked with him for the period from 08.10.2012 to 30.09.2018 and his services were illegally terminated on 01.10.2018 without any notice, chargesheet, enquiry or compensation and in place of respondent No.1, the appellant appointed juniors who were retained by the appellant after termination of services of respondent No.1. The respondent No.1 contended that his termination was in violation of provision of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 (for short – the Act) where he worked for more than 240 days with appellant in each year as well as in the last calendar year. No seniority list was supplied to the respondent No.1 while terminating his services. The writ petition was disposed of with the direction to pay the enhanced amount of compensation.

(4) Learned counsel for the appellant contends that the learned Single Judge did not appreciate the facts as Section 25-F, 25-G and 25-H of the Act are not applicable as there was no retrenchment and conjoint reading of aforesaid sections makes it clear that the case of respondent No.1 did not fall within the purview of retrenchment. He further contends that respondent No.1 voluntarily and willingly abandoned his services which were never terminated and question of reinstatement in continuity of service did not arise. Since, the same was merely a transfer and not termination, therefore, it cannot be said that it is in violation of Section 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 and same are not applicable in the

instant case. Learned counsel for the appellant submits that there is nothing on record to show which would suggest that services of respondent No.1 was ever terminated rather he was transferred and in transfer orders the provisions of Industrial Disputes Act, 1947 are not applicable.

(5) We have heard learned counsel for the appellant and perused the material available on record.

(6) In judgment dated 21.11.2023, it is mentioned that the appellant was proceeded ex-parte on 24.04.2019 and the Tribunal passed the award dated 06.11.2019 wherein it has been observed that respondent No.1 is not entitled for relief or reinstatement, backwages and taking into consideration the fact that the services of respondent No.1 were terminated in violation of provisions of Section 25-F of the Act where he worked with the appellant w.e.f 08.10.2012 to 30.09.2018 and was drawing Rs.7,165/- per month as salary at the time of his termination so he was granted compensation worth Rs.30,000/- along with cost which was directed to be paid within 45 days of the publication of the award failing which respondent No.1 would be entitled to the awarded amount along with interest at the rate of 6% per annum till realization. During arguments in CWP, respondent No.1-the petitioner therein confined himself with the limited prayer to enhancement of compensation awarded by the Tribunal being on lower side, which was opposed by the appellant but learned Single Judge relying upon the judgment passed by the Supreme Court in the case of ***B.S.N.L. Versus Bhurumal, 2014(3) SCT 49*** and also in the case of ***Assistant Engineer, Rajasthan Dev. Corpn. and another Versus Gitam Singh, 2013 (5) Supreme Court Cases 136*** disposed of the writ petition where it was held that reinstatement is not a rule, it depends on various circumstances, like nature of work, manner and method of appointment, length of service etc.

Accordingly, in aforesaid cases also in state of reinstatement, the grant of compensation was considered to be the appropriate remedy. Learned Single Judge further observed that since respondent No.1 joined appellant as a Gunman and he worked for the period from 08.10.2012 to 30.09.2018 who was drawing salary at the rate of Rs.7,165/- per month and the award dated 06.11.2019 passed by the Industrial Tribunal was never challenged where the respondent No.1 has been litigating since year, 2019, enhanced the compensation which was awarded to the respondent No.1 being on lower side. Since the award dated 06.11.2019 (Annexure P-1) attained finality and same was never challenged. Now appellant by virtue of present intra Court appeal cannot challenge the enhanced amount of compensation which was awarded by the learned Single Judge and the same seems to be appropriate which does not require any interference by this Court as same does not suffer from any infirmity. Consequently, the present appeal is dismissed.

(7) All pending miscellaneous application(s) also stand disposed of.

(DEEPAK MANCHANDA)
JUDGE

(DEEPAK SIBAL)
JUDGE

January 05, 2024
Nisha Yadav

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No