

2025:PHHC:147541



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

CM-7602-CWP-2024 in/and
CWP-11107-2003 (O&M)
Date of decision: 28.10.2025

The Executive Engineer, Haryana Urban Development Authority,
HUDA, PanipatPetitioner

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat
and anotherRespondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Sumit Jain, Advocate, for the petitioner.

Mr. Rajiv Malhotra, DAG, Haryana.

Mr. Rahul Rathore, Advocate,
for respondent No.3
(Through Video Conferencing)

KULDEEP TIWARI, J. (Oral)

CM-7602-CWP-2024

In compliance to the order dated 24.09.2025, passed by this Court, an affidavit of Executive Engineer, HSVP Division, Panipat, has been filed, and the same is taken on record.

As per the affidavit (supra), the requisite salary, in terms of Section 17-B of the Industrial Disputes Act, 1947, has been released to the respondent-workman up to 31.05.2025. However, as the necessary affidavit was not submitted by the respondent-workman to the effect that he is not gainfully employed elsewhere, therefore, further compliance could not be made.

The application is disposed of, accordingly.

Main case:

1) With the consent of learned counsel for the contesting parties, the main case, which is pending post admission, and is on the regular board of this Court, is taken up for hearing.

2) The petitioner-Management has approached this Court by way of instant writ petition, as cast under Articles 226/227 of the Constitution of India, thereby, assailing the award dated 10.01.2003 (Annexure P-3), vide which, the respondent-workman was held entitled for reinstatement with continuity of service on his original post, and full back wages from the date of demand notice, i.e. 20.11.1998.

3) Learned counsel for the petitioner, in an attempt to throw challenge to the award (supra), submits that no evidence was brought on record by the respondent-workman to substantiate that he had worked for 240 days in the preceding calendar year. On the contrary, the petitioner-Management has duly proved that he had worked only for 169 days. Therefore, only on account of infraction of Section 25-F of the Act, the relief of reinstatement ought not to have been granted. In support of his contention, a reference is made to a verdict rendered by the Hon'ble Supreme Court in **Civil Appeal No.13834 of 2024, (Maharashtra State Road Transport Corporation vs. Mahadeo Krishna Naik, decided on 14.02.2025).**

4) Likewise, he submits that the respondent-workman did not lead any positive evidence to prove that Balkar Singh, Sunil and Anil, were retained in service, despite being junior to him. Therefore, apparently, the learned Tribunal erred in drawing an adverse inference against the petitioner-Management, upon which, the impugned award is

predicated. Further, before taking an adverse inference, the learned Tribunal ought to have taken into account the fact that no efforts were made by the respondent-workman to prove that he had, indeed, worked for 240 days in the preceding calendar year. It is submitted that finding of the learned Tribunal, that muster-rolls from January, 1995 to July, 1995, were not produced by the Management, despite being summoned by the workman, would not advance his cause, in any way, as the Management had produced the muster-rolls, which actually pertained to the workman, i.e. from October, 1994 to 30.09.1995, thereby manifestly establishing that he had worked only for 169 days. To lend credence to the version of the petitioner-Management, he invites attention of the Court towards cross-examination of MW1-N.K. Sawhney, Sub Divisional Engineer, O/o Executive Engineer, HUDA, Panipat, and submits that no direction was ever passed upon the Management to produce muster rolls from January, 1995 to May, 1995, along with the records of other juniors, as named above, who were retained in service:-

“....Today, I have brought all muster roll from 10/94 to 30/09/95. I have not brought the muster roll from 1/95 to 5/95 the workman have not work during this period and record for this period was not summoned. It is incorrect that I have not brought the record knowingly.”

5) Finally, he submits that in view of the abovesaid narration of the factual gamut of the matter, the impugned award is liable to be set aside.

6) On the other hand, learned counsel for the respondent-workman, while vehemently opposing the submissions advanced on

behalf of the petitioners, submits that the Management miserably failed to produce any positive evidence to establish that the respondent-workman had not worked for 240 days in the preceding calendar year. He further submits that, in fact, the Management deliberately did not produce the material record, as required by the respondent-workman, which could have proved that persons junior to the workman were retained in service. In such circumstances, the learned Tribunal committed no illegality, while drawing adverse inference against the Management.

7) This Court has heard the submissions advanced on behalf of the parties, and perused the record.

8) What emerges upon a perusal of the impugned award is that the muster rolls, along with record of the persons junior to the respondent-workman, as summoned by him, was not produced by the petitioner-Management. In such circumstances, the learned Tribunal was left with no other option, but to draw an adverse inference. At this juncture, it would be expedient to refer to the relevant observations made by the learned Industrial Tribunal, in this regard, and the same read as thus:-

“8. The petitioner while appearing as WW-1 has stated he has worked from 1994 to 9/1995. For this period is admitted by the management but the management has admitted for only 169 days during this period. The petitioner has claimed that he has worked in the months of January 1995 to July 1995 whereas the management has shown from January 1995 to July 1995 as nil working days. The management has also not produced the muster rolls in the court despite the fact that the muster rolls of this period which was summoned by the workman alongwith the

record of junior persons, namely, Balkar Singh, Sunil and Anil but the management did not produce the muster rolls from January 1995 to July 1995 and also did not produce the record of junior persons. Therefore due to non-producing the record, an adverse inference is drawn against the management. The management in its evidence has also not specifically denied that junior persons namely, Balkar Singh, Sunil Anil and Balinder are not working in the management department. Therefore in my opinion under these circumstances, it stands proved on the file that after the termination of services of the petitioner, junior persons stands admitted. In view of my discussion above, the workman has worked for more than 240 days. therefore, termination of services of the workman is in violation of the provisions of sections 25-F and 25-H of the Act. The termination of services of the workman is illegal and liable to be set aside. I therefore set aside termination order of the workman and order for reinstatement with continuity of service on original post. As there is no evidence led by the management that the workman was gainfully employed after the date of his termination. Therefore, he is entitled for full back wages from the date of demand 20.11.98. notice i.e. This issue is decided accordingly in favour of the claimant and against the management.”

- 9) A careful perusal of the observations (supra), makes it abundantly clear that it is none other than the petitioner-Management, which was at fault in not producing the summoned record, for the reasons best known to it. Therefore, this Court is of the considered view that the learned Tribunal has not committed any error, while drawing an adverse

inference against the petitioner-Management, and thus, the finding with regard to issue No.1 is affirmed.

10) Now the next issue which arises for consideration of this Court is, as to whether, petitioner is entitled for reinstatement with continuity of service?

11) While considering this issue, this Court cannot shut its eyes from the fact that operation of the impugned award was stayed by this Court, vide order dated 19.08.2003. Therefore, the relief of reinstatement, as has been awarded by the learned Tribunal, could not be given effect to, till date. Further, the petitioner was terminated in the year 1995, and the impugned award was passed as back as on 10.01.2003. There is no whisper about the selection criteria of the respondent-workman, which is one of the vital factors, while considering the issue of reinstatement. At this juncture, this Court is reminded of the law laid down by the Hon'ble Supreme Court in **Mahadeo Krishna Naik (supra)** that, only on account of infraction of Section 25-F of the Act, the relief of reinstatement should not be granted.

12) In the wake of the position sketched out above, and the law laid down by the Hon'ble Supreme Court, this Court is of the considered view that the relief of reinstatement is unsustainable. Accordingly, the impugned award is modified to the extent that the relief of reinstatement is set aside.

13) However, since the respondent-workman had rendered his services to the petitioner-Management, he deserves to be compensated suitably. Before proceeding further on the issue, it would be expedient to refer to the decision rendered by a Coordinate Bench of this Court in

CWP-11057-2001 (State of Haryana versus Surjeet and another),

decided on 30.07.2025, wherein, for each preceding year, in which the workman had worked, he was held entitled to Rs.50,000/-, as lump sum compensation. The relevant part thereof, is extracted hereinafter :-

“6. As per the settled principle of law settled by the Division Bench of this Court in LPA No.1203-2021 titled as Sukhbir Singh vs. State of Haryana and others decided on 01.03.2023 , an employee is entitled for compensation in lieu of benefit of reinstatement in service. Relevant paragraphs of the said judgment are as under:-

6. Resultantly, once the workman had completed 240 days and apparently had worked for a period spanning more than 5 ½ years, we are of the considered opinion that dispensing of his service before his contractual period came to an end would entitle him for the statutory protection which would be evident from the award of the Labour Court. However, keeping in view the fact that at this point of time, it would be justified to put him back in service since a period of almost 25 years has gone by and therefore, it would be just and appropriate to award compensation to the tune of Rs.2,50,000/- on an average of Rs.50,000/- per year, keeping in view the fact that the State had taken his service for more than 5 years with the same office in different districts. 7. The Apex Court in Haryana Urban Development Authority Vs. Om Pal, (2007) 5 SCC 742 granted Rs.25,000/- for the service of one year whereas in Uttaranchal Forest Development Corporation Vs. M.C.Joshi, (2007) 9 SCC 353, for a period of 2 years, a sum of Rs.75,000/- was granted. Similarly, in Asst. Engineer, Rajasthan Development Corporation & another Vs. Gitam Singh, 2013 (1) SCR 679, the said view was followed while noticing that the service was of 8 months and thus, compensation of Rs.50,000/- was granted. Similarly, in Management, Hindustan Machine Tools Ltd. Vs. Ghanshyam Sharma, 2018 (18) SCC 80, for a period of one year, compensation of Rs.50,000/- had been granted. In K.V.Anil Mithra & another Vs. Sree Sankaracharya University of Sanskrit &

another, 2021 (4) SCT 415, for a period of little over 4 years, amount awarded was Rs.2,50,000/- in lieu of the reinstatement and back wages of 50% which was granted and accordingly, modified.”

7. A bare perusal of the above reproduction would show that for each completed year, instead of reinstatement, a workman can be paid compensation to the tune of Rs.50,000/ for each completed year. Keeping in view the fact that in the present case, respondent No.1-workman had worked for a period of more than 06 years, he becomes entitled for sum of Rs.3,00,000/- on the said account.”

14) In conspectus of the factual position, recorded hereinabove, coupled with the ratio laid down in the decision (supra), since the respondent-workman had rendered service from October, 1994 to September, 1995, this Court is of the considered view that a lump sum compensation of Rs. 1,00,000/- would be adequate.

15) Ordered accordingly.

16) The petitioner-management is directed to remit the abovesaid amount to the respondent-workman, within a period of four weeks from the receipt of a certified copy of this order. In the event of default, the workman shall be entitled to interest @ 9 per annum from the date of the impugned award.

17) With the abovesaid observations, the instant writ petition is disposed of.

(KULDEEP TIWARI)
JUDGE

28.10.2025
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No