



CM-17228-CWP-2024 in/and 1
CWP-11049-1997 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(102+212)

CM-17228-CWP-2024 in/and
CWP-11049-1997 (O&M)
Date of Decision : 30.01.2025

Shri Yuvak Sahitya Sadan, Sirsa

...Petitioner

Versus

Vishva Jeet Sharma and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Dheeraj Narula, Advocate for the petitioner.

Mr. Mani Ram Verma, Advocate for respondent No. 1.

Mr. Gaurav Jindal, Additional Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that the petitioner is not an Industry rather a Cooperative Society registered under the Societies Registration Act, 1860 and further that the respondent-workman who was working as a Librarian for approximately a year, had left the job of his own and hence, granting the benefit of reinstatement with full back wages and continuity needs to be reconsidered by this Court in the present petition.

2. Learned counsel appearing on behalf of the respondent-workman submits that the respondent-workman was appointed on 31.08.1988 and he continued working till 03.01.1990 and, therefore, as he has more than one year of service, the petitioners are under obligation to

grant the respondent-workman the benefit of retrenchment compensation by complying with the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as '1947 Act') and once, it is clear that the said process was not followed, the grant of benefit of reinstatement along with continuity and full back wages is perfectly valid.

3. It may be noticed that while issuing notice of motion dated 01.08.1997, the operation of the Award dated 05.06.1995 (Annexure P-5) was stayed and the same has never been implemented.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. The present petition is pending for the past 27 years for final adjudication. The respondent-workmen as of now has already attained the age of superannuation. Further, keeping in view the fact that the respondent-workman was working as a Librarian and the petitioner is a Cooperative Society, the adjudication is being done keeping in notice the said facts.

6. On being asked to point out as to whether, there was any perverse finding or not, learned counsel for the petitioner has not been able to deny that the respondent-workman has been working for more than 240 days in preceding 12 years till the date of termination. That being so, the question which remains was whether the respondent-employee left the job or his services were terminated. This has been vividly answered in the decision by the Labour Court on 05.06.1995 in favour of the respondent-workman that he never abandoned the job as being claimed.

7. No evidence to overturn the said finding has been brought to the notice of this Court so as to treat the said finding as preverse. The only

question which arise now is whether the grant of continuity of service to an employee who had only worked for approximately one year coupled with the fact that he was working as a Librarian under a Cooperative Society (petitioner) and whether the reinstatement can be granted? The answer is negative. This cannot be allowed at this stage as the employee has already attained the age of superannuation and keeping in notice these facts and the fact that he had worked for one year and four months, the relief given to the respondent-workman is modified to the extent that a sum of ₹75,000/- be paid to the respondent-workman in lieu of the reinstatement and continuity of service as directed by the petitioner. The amount of compensation is being fixed keeping in view the judgment of the Division Bench of this Court in LPA No. 1203 of 2021 titled as ***Sukhbir Singh Vs. State of Haryana and others***, decided on 01.03.2023, according to which, for each year a sum of ₹50,000/- will be a rightful compensation in lieu of the reinstatement. Relevant paragraphs No. 6 and 7 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 not 3 of 5 Neutral Citation No:= 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 backwages of 50% which was granted and accordingly, modified.”

8. In the present case, by complying the said ratio as the employee had worked for one year and four months, he is being granted the compensation of ₹75,000/-, which be released within a period of two weeks from the receipt of copy of this order and in case, the amount is not paid by the petitioners to the respondent-workman within the period prescribed, the said amount will also get interest @ 6% per annum from today onward till the actual payment in case the same is made after the time period.

9. Petition is disposed of in above terms.

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10. Pending miscellaneous application, if any, also stands disposed of.

January 30, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No