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

Date of Decision : 25-02-2025

1. CWP-14764-2000 (O&M)

KIRSHAN BHAGWAN

.....Petitioner

VERSUS

THE PRESIDING OFFICER, LABOUR COURT BATHINDA ETC.

.....Respondent(s)

and

2. CWP-3190-2003 (O&M)

FAZILKA COOPERATION SUGAR MILLS

.....Petitioner

VERSUS

S. KIRSHAN BHAGWAN AND ANR.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Ritu Pathak, legal aid counsel for the petitioner.

HARSIMRAN SINGH SETHI, J. (Oral)

1. Present set of two writ petitions involve common question of law in the context of common set of facts and thus they are being decided by a common order.

2. In the present set of petitions, the same award is under challenge by both the parties i.e. the employee as well as the employer. The challenge at the hands of the employer is that the findings which have been recorded by the Labour Court to hold the termination as bad so as to grant

the benefit of reinstatement is not based upon the facts and evidence which have come on record whereas, the challenge to the same award by the workman is on the ground that despite holding that termination is bad, the benefit of reinstatement with continuity has been granted but the benefit of backwages has not been granted.

2. I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

3. With regard to the challenge to the award at the hands of the employer i.e. CWP No.3190 of 2003, it may be noticed that the impugned award dated 19.07.2000, has already been complied with and the respondent-workman is working with the employer as of now for the last more than two decades. Once, the award has already been implemented and the respondent-workman is already working for the last two decades, even on this account itself, no relief can be granted to the petitioner-employer so as to hold that the termination of the services of the respondent-workman were wrongly held to be bad.

4. Further, even on merits with regard to the only contention being raised by the employer that there is no finding given in the award as to whether the respondent-workman had completed 240 days in service in the preceding 12 months of his termination, it may be noticed that it has been observed in Para-7 that the management did not produce the record.

5. Once, in the facts and circumstances of the present case where the record has been withheld by the management and presumption has been raised in the favour of the employee that he has completed 240 days, the grant of benefit in favour of the employee need not be re-opened after a

period of 20 years especially when the respondent-workman is already working for the last 2 decades in pursuance to the direction given vide the impugned award.

6. With regard to the claim of the respondent-workman so as to grant him the benefit of backwages, it may be noticed that the backwages can only be granted in case, it has come on record by way of evidence that the respondent-workman was not gainfully employed during the period after his services were terminated till the passing of the impugned award.

7. Learned counsel for the respondent-workman has not been able to point out any such evidence which has been brought on record to show that the workman was not gainfully employed hence, in the absence of any such evidence brought on record with regard to the fact that the workman was not gainfully employed, the non-grant of the backwages need not to be interfered especially when the respondent-workman is working with the employer for the last more than 2 decades.

8. No ground is made out for any interference by this Court on the asking of either of the parties qua the award challenged.

9. Hence, set of writ petitions stand dismissed.

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

11. Photocopy of this order be placed on the file of other connected case.

25-02-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO