



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

209

**CWP-3254-1997 (O&M)
Decided on : 12.05.2025**

SANDEEP KUMAR

..PETITIONER

Versus

PRESIDING OFFICER-CUM- LABOUR COURT, PANIPAT AND ANR

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Yesh Paul Malik, Advocate for the petitioner.

HARSIMRAN SINGH SETHI , J. (Oral)

1. In the present petition, the challenge is to the impugned award dated 19.04.1996 (Annexure P-3) by which, the claim of the petitioner that his services were terminated by the respondent-department in violation of the provisions of the Industrial Disputes Act, 1947 (herein after referred to the 1947 Act) has been rejected.

2. Learned counsel for the petitioner-workman argues that the petitioner-workman was appointed by the respondent-department on 07.03.1988 as a Laboratory Attendant on daily wages. Learned counsel for the petitioner-workman further submits that the petitioner-workman has worked with the respondent-department upto 31.12.1992 when, his services were terminated by the respondents-department and that too without giving any reasons to the petitioner-workman. Learned counsel for the petitioner-workman further submits that the petitioner-workman had continuously worked with the respondent-department without interruptions and had



-2-

completed 240 days in a year prior to termination of his services, hence, the provisions of Section 25-F of the Industrial Disputes Act, 1947 have been violated by the respondent-department, whereas, the labour Court in its order impugned has come to the conclusion that the respondent-department i.e. Public Work Department (Building and Road) (PWD (B&R)), Haryana does not fall within the definition of 'Industry'.

3. Learned counsel for the petitioner-workman further argues that once, the petitioner-workman was working as a workman with the respondent-department, and had continuously rendered his service for a period of more than 4 ½ years, therefore, declining the claim of the petitioner on the ground that the respondent-department does not fall within the definition of 'Industry' is not permissible.

4. Learned counsel for the respondent-department on the other hand submits that even it is assumed for the sake of arguments that the respondent-department falls under the definition of an 'Industry' but the petitioner-workman was working on a time bound project on which he was assigned to him by the respondent-department and the said project was came to an end on 31.12.1992 after which the services of the petitioner-workman were no longer needed and he was relieved from services by the respondent-department, hence, the same cannot be treated as violation of Section 25-F of the 1947 Act and hence, non grant of any benefit to the petitioner-workman by the labour Court is perfectly valid and legal and as the services of the petitioner were never retrenched by the respondent-department, the impugned award dated 19.04.1996 (Annexure P-3) is liable to be upheld.

5. I have heard learned counsel for the parties and have gone through the case file with their able assistance.



6. It may be noticed that learned counsel for the respondent-department has only defended the order of termination of the services of the petitioner-workman on the ground that the project against which the petitioner was working with the respondent-department came to an end on 31.12.1992. It may be further noticed that the project on which the workman was assigned to work by the petitioner-workman came to an end on 31.12.1992 but in any case, where an employee has worked for 240 days in a year prior to the termination of his/her services, the provision of Section 25-F of the 1947 Act, will be applicable in his/her case.

7. The condition under which, the termination of services of the petitioner-workman will not amount to retrenchment has been stipulated in the 1947 Act itself. The situation under which the services of the petitioner were terminated by the respondent-department, is not covered under the conditions stipulated so as to not to treat the termination of the services of the petitioner-workman as retrenchment, to be not covered under 1947 Act.

8. Further, no such record/evidence has been placed on record by the respondent-department to hold that the respondent-department does not fall within the definition of 'Industry'. In the absence of any such evidence/record brought on record, the findings recorded by labour Court in its order impugned could not have been recorded. Further, learned State counsel appearing for respondent-department has not placed much reliance upon the said findings of the labour Court but has defended the termination order of the petitioner-workman on the ground that the termination of the services of the petitioner-workman did not amount to retrenchment so as to grant him any kind of relief, keeping in view the fact that the project on which the petitioner-workman was working was a time bound project.



9. Keeping in view the totality of circumstances, once the petitioner-workman had worked with the respondent-department for 240 days in a calendar year prior to the termination of his services and he had continuously worked for more than a period of 4 years and 09 months with the respondent-department, the termination of the services of the petitioner-workman on the hands of department will amount to retrenchment in view of the provisions of the 1947 Act, hence, the findings recorded by the labour Court in its impugned award dated 19.04.1996 (Annexure P-3) could not be accepted and the same is accordingly set-aside.

10. Further, the question which arises before this Court, as to whether the petitioner is to be granted the benefit of reinstatement in services as is being claimed by the petitioner-workman in the present petition or with the grant of benefit of retrenchment compensation to the petitioner-workman will achieve the interest of justice. The respondent-department has pleaded that the project under which the petitioner was assigned to work being a time bound project came to end on 31.12.1992.

11. Further, the petitioner-workman had continuously worked with the respondent-department for a period of 04 years 09 months. Nothing has come on record to show that the post of Laboratory Assistant is still in existence with the respondent-department so as to grant the benefit of reinstatement in service to the petitioner-workman. Further, after a period of 32 years the grant of benefit of reinstatement in service to the petitioner-workman will not be justified.

12. Keeping in view the totality of circumstances, the petitioner-workman is held entitled for the benefit of retrenchment compensation instead of the benefit of reinstatement in service as the petitioner-workman



has worked for 04 years and 09 months before the termination of his services. Keeping in view the settled principle of law as settled by a Division Bench of this Court in **LPA No. 1203 of 2021 titled Sukhbir Singh versus State of Haryana and others, decided on 01.03.2023**, the compensation can be granted to an employee who is not working against a regular post and there is a difficulty in reinstating the employee in such kind of service with benefit of back-wages. The relevant paragraph nos.6 and 7 of the same are reproduced as under:-

“Para No. 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 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.

Para no.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



-6-

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. ”

13. A bare perusal of the above shows that such kind of employees are entitled for a sum of Rs.50,000/- as compensation for each completed year in service and in the present case, the petitioner-workman has worked with the respondent-department for 04 years and 09 months.

14. Learned counsel for the petitioner has placed reliance upon the judgment passed by the then Co-ordinate Bench of this Court in **CWP No. 11548 of 1992 titled as Karnal Central Coop. Bank limited Karnal versus Presiding Officer Industrial Tribunal cum-Labour Court Rohtak and others'**, to contend that even after worked for complete 240 days in a year, a compensation of Rs. 2 Lakh was paid to the employee.



CWP-3254-1997 (O&M)

-7-

15. Keeping in view the above facts and circumstances, as the judgment of the Divisions Bench in *Sukhbir Singh's case (supra)* is prevail over the judgment passed by a Single Judge of this Court in *CWP NO. 11548-1992- Karnal Central Coop Bank's case (supra)*, the petitioner is entitled for the benefit of retrenchment compensation of Rs. 50,000/- for each completed year.

16. The petitioner-workman had completed 09 months after completion of 04 years, the said 09 months will also treated as a one completed year for purpose of computing the compensation amount, the petitioner-workman is being treated having services of five years, hence, the petitioner-workman be granted the compensation of Rs. 2,50,000/- as full and final settlement. The same shall be paid within a period of 8 weeks from the receipt of certified copy of this order, failing which, it will carry interest @ 6% per annum from the date of order till the date of payment.

17. The present writ petition is disposed of in above terms.

18. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

12.05.2025

Riya

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No