

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

107

CWP-2245-2001 (O&M)

Date of Decision : December 12, 2025

**STATE OF HARYANA THROUGH GENERAL MANAGER,
HARYANA ROADWAYS, PANIPAT**

-PETITIONER

V/S

RAJINDER PRASAD AND ANR.

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Bhupender Singh, Addl. A.G., Haryana.

Mr. Jagbir Malik, Advocate, with
Mr. Shubham Malik, Advocate
for the respondent No.1.

KULDEEP TIWARI, J. (ORAL)

1. Through instituting the present writ petition, the petitioner/management assails the award dated 30.05.2000, passed by respondent No.2/Labour Court, Panipat, whereby, upon holding that the termination of services of respondent No.1/workman was illegal for want of a departmental enquiry and non-payment of retrenchment compensation, the reference was answered in favour of the workman.

2. While assailing the impugned award, learned counsel for the management submits that the workman was engaged as a Conductor purely on a contractual basis and not pursuant to any regular selection process. It is contended that he worked from 10.03.1993 till 09.11.1993, after which he voluntarily abandoned his duties without any leave application or prior intimation. Owing to his wilful absence, the management issued a show-cause notice dated 24.11.1993 (Ex. WW-12). However, no reply was

submitted by the workman within the stipulated period. It is further submitted that the workman never made any attempt to resume duties after abandoning service and did not raise any dispute or serve a demand notice until 29.08.1998, i.e. nearly five years after his abandonment of service. However, these material aspects were not appreciated by the Labour Court in their correct perspective while answering the reference in favour of the workman.

3. Learned counsel for the management further submits that even if the Labour Court was of the view that there was a violation of the principles of natural justice, it ought to have limited the relief to reinstatement while reserving liberty to the management to initiate a departmental enquiry into his voluntary abandonment from 10.11.1993. In any event, voluntary abandonment obviated the need for a departmental enquiry, and holding such an enquiry would have been an empty and futile formality prior to passing the termination order.

4. *Per contra*, learned counsel appearing for the workman vehemently opposes the submissions advanced on behalf of the management. It is contended that there is no dispute that no departmental enquiry was conducted, and that employees junior to the workman were retained in service, a fact which stands admitted by the management's witnesses in their depositions before the Labour Court. The action of the management, therefore, squarely falls within the ambit of unfair labour practice.

5. Learned counsel for the workman further submits that while the demand notice was raised on 29.08.1998, the show-cause notice was issued subsequently on 24.11.1999, i.e. after a lapse of more than one year. It is

also contended that the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as “the I.D. Act”) were not complied with. In these circumstances, the Labour Court has rightly answered the reference in favour of the workman.

6. This Court has heard the rival submissions advanced by learned counsel for the parties and has carefully examined the record.

7. As regards the plea of the management that the workman had voluntarily abandoned his duties, the same, in the considered opinion of this Court, does not merit acceptance. The workman was initially appointed as a Conductor on a contractual basis for a period of 90 days, which contract was subsequently extended. During the subsistence of the extended contract, the workman remained absent from duty w.e.f. 10.11.1993, whereupon the management issued a show-cause notice dated 24.11.1993, calling upon him to explain his unauthorized absence within seven days, failing which appropriate action was proposed to be taken. In response thereto, the workman submitted his reply in January, 1994, stating that he was suffering from illness and, therefore, could not resume duties. He further asserted that upon recovery, when he attempted to rejoin duty, he was not permitted to do so by the management. The workman also submitted a representation dated 13.01.1994 to the then State Transport Minister, Haryana, who recommended that the workman be taken back on duty. The said representation and recommendation were duly produced before the Labour Court as Ex. WW-11 and Ex. WW-11/A, respectively.

8. From the above, it is manifest that the workman had made *bona fide* efforts to resume duty. Consequently, the plea of voluntary abandonment is clearly unsustainable. At best, the conduct of the workman

could be categorized as unauthorized absence. In such circumstances, the management was under a legal obligation to initiate and conclude a departmental enquiry in accordance with law.

9. The contention advanced by learned counsel for the management that the holding of a departmental enquiry would have been a futile exercise owing to the prolonged absence of the workman is devoid of merit. As already noticed, the case squarely falls within the ambit of unauthorized absence from duty, for which a departmental enquiry was mandatory. Moreover, the management was required, at the very least, to pass a formal order of termination instead of denying the workman the opportunity to rejoin duty. It also remains undisputed that the mandatory provisions of Section 25-F of the I.D. Act were not complied with.

10. The reliance placed by learned counsel for the workman upon the Division Bench judgment of this Court in ***“Swaran Singh v. Punjab State Electricity Board, Patiala”***, 2000(2) SCT 558, fully supports the case of the workman. The relevant observations from the said judgment are reproduced hereinafter:-

“13. Before concluding, we consider it proper to deal with the argument of Shri Deepak Sibal that the continued absence of the appellant afforded ample justification to the Superintending Engineer, Distribution Circle, Ludhiana to invoke Regulation 14(ii) of the Regulations. He submitted that holding of regular enquiry would have proved to be an empty formality because the factum of the appellant's absence from duty could not have been controverted. In our view, this argument of the learned counsel is wholly devoid of substance and deserves to be rejected. An analysis of the order dated December 12, 1985 shows that in the first two paragraphs the officer concerned noted the facts relating to the absence of the appellant and the issuance/publication of notice requiring him to

resume duty and in the last paragraph he recorded the order for termination of the services of the appellant w.e.f. February 4, 1984 by observing that there is no necessity of holding enquiry against the employee. However, neither before the Labour Court and the learned single Judge nor before us any material has been placed on behalf of respondent No. 1 to show as to why it was not reasonably practicable to hold enquiry into the allegation of absence which constituted the foundation of the action taken by the employer. The use of the stock language of Regulation 14(ii), which is pari materia to Article 311(2)(b) of the Constitution cannot be treated as sufficient compliance of the mandatory requirement of recording cogent reasons for dispensing with regular enquiry. Learned counsel has not even suggested that holding of enquiry was impracticable due to disappearance of evidence or that it would have been contrary to public interest. Rather, he had to concede that there was no difficulty to issue chargesheet to the appellant or to hold regular enquiry and at such enquiry, evidence could have been produced on behalf of the departmental authority to prove that the delinquent had proceeded on leave on February 4, 1984 without obtaining permission from the competent authority and he had not reported for duty on or after February 9, 1984 and further that he did not join duty in spite of the notices issued/published at the instance of the competent authority. In view of this, we have no hesitation to hold that the Labour Court had rightly declared that the termination of the services of the appellant is ultra vires to Regulation 14(ii) and the learned single Judge has gravely erred in interfering with the award passed by it.”

10. In view of the aforesaid discussion, this Court finds no illegality or perversity in the impugned award, whereby the termination of the workman has been held to be illegal.

11. The issue now emerging for consideration is ***“whether the workman is entitled to reinstatement with continuity of service and full back wages”***.

12. Learned counsel for the workman, relying upon the judgment

of the Hon'ble Supreme Court in ***“Jayantibhai Raojibhai Patel v. Municipal Council, Narkhed & Ors.”***, 2019 (4) SCT 141, contends that the workman is entitled to reinstatement with full back wages and, having attained the age of superannuation, to all consequential pensionary benefits as well.

13. In order to adjudicate the issue (*supra*), it would be apposite to refer to certain authoritative pronouncements on the subject. In ***“Jagbir Singh v. Haryana State Agriculture Marketing Board and another”***, 2009 (3) SCT 790, the Hon'ble Supreme Court held that reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Further held that compensation instead of reinstatement would meet the ends of justice. Moreover, the award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers was not found to be proper and instead compensation was awarded. The relevant observations are extracted hereunder:-

“7. It is true that earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention to the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

15. It would be, thus, seen that by catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily wager who does not hold a post and a permanent employee.

Therefore, the view of the High Court that the Labour Court erred in granting reinstatement and back wages in the facts and circumstances of the present case cannot be said to suffer from any legal flaw. However, in our view, the High Court erred in not awarding compensation to the appellant while upsetting the award of reinstatement and back wages. As a matter of fact, in all the judgments of this Court referred to and relied upon by the High Court while upsetting the award of reinstatement and back wages, this Court has awarded compensation.

16. While awarding compensation, the host of factors, inter- alia, manner and method of appointment, nature of employment and length of service are relevant. Of course, each case will depend upon its own facts and circumstances. In a case such as this where the total length of service rendered by the appellant was short and intermittent from September 1, 1995 to July 18, 1996 and that he was engaged as a daily wager, in our considered view, a compensation of Rs. 50,000/- to the Appellant by Respondent No. 1 shall meet the ends of justice. We order accordingly. Such payment should be made within six weeks from today failing which the same will carry interest @ 9% per annum.”

14. The ratio laid down in **Jagbir Singh’s case (supra)** was reiterated by the Hon’ble Supreme Court in **“Incharge Officer & Anr. v. Shankar Shetty”, 2010 (4) SCT 261**, wherein, instead of reinstatement with full back wages, compensation of ₹1,00,000/- was awarded. The relevant paragraph is reproduced hereunder:-

“5. We think that if the principles stated in Jagbir Singh and the decisions of this Court referred to therein are kept in mind, it will be found that the High Court erred in granting relief of reinstatement to the respondent. The respondent was engaged as daily wager in 1978 and his engagement continued for about 7 years intermittently upto September 6, 1985 i.e. about 25 years back. In a case such as the present one, it appears to us that relief of reinstatement cannot be justified and instead monetary compensation would meet the ends of justice. In our considered opinion, the compensation of Rs. 1,00,000/- (Rupees One lac) in lieu of reinstatement shall be appropriate, just and equitable. We order accordingly. Such payment shall be made within 6 weeks from today failing which the same shall carry interest at the rate of 9 per cent per annum.”

15. The principle (*supra*) was again followed in **“Senior Superintendent Telegraph (Traffic), Bhopal v. Santosh Kumar Seal & Ors.”**, AIR 2010 SC 2140, wherein the Hon’ble Supreme Court declined reinstatement and back wages to workmen engaged as daily wagers decades earlier, and awarded instead compensation of ₹40,000/- to each workman.

The relevant findings are reproduced hereinafter:-

“6. In last few years it has been consistently held by this Court that relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate, (See U.P. State Brassware Corpn. Ltd. & Anr. v. Uday Narain Pandey; Uttaranchal Forest Development Corpn. v. M.C. Joshi; State of M.P. & Ors. v. Lalit Kumar Verma; Madhya Pradesh Administration v. Tribhuban; Sita Ram & Ors. v. Moti Lal Nehru Farmers Training Institute; Jaipur Development Authority v. Ramsahai & Anr.; Ghaziabad Development Authority & Anr. v. Ashok Kumar & Anr. and Mahboob Deepak v. Nagar Panchayat, Gajraula & Anr.).

7. In a recent judgment authored by one of us (R.M. Lodha, J.) in the case of Jagbir Singh v. Haryana State Agriculture Marketing

Board and Anr., the aforesaid decisions were noticed and it was stated :

“7. It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

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14. It would be, thus, seen that by a catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily wager who does not hold a post and a permanent employee”.

8. In view of the aforesaid legal position and the fact that the workmen were engaged as daily wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monetary compensation would subserve the ends of justice. In our considered view, the compensation of Rs. 40,000/- to each of the workmen (respondent nos. 1 to 14) shall meet the ends of justice. We order accordingly. Such payment shall be made within 6 weeks from today failing which the same shall carry interest at the rate of 9 per cent per annum.”

16. All the judgments (*supra*) were subsequently followed by the Supreme Court in case titled “**B.S.N.L. Vs. Bhurumal**”, 2014 AIR (SCW) 528, wherein it was held that where termination of a daily wage worker is found illegal solely due to procedural infirmities such as non-compliance with Section 25-F of the I.D. Act, reinstatement with back wages is not automatic and monetary compensation may be an appropriate remedy. However, it was clarified that where termination is actuated by unfair labour practice or in violation of the principle of “last come, first go”, reinstatement should ordinarily follow **unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement.** In that case, considering the long lapse of time, short tenure of service, and diminished requirement of manpower owing to technological advancements, only compensation was granted. The paragraphs containing the apposite observations read as under:-

“23. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wage worker and where the termination is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.

24. Reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be

illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily wage basis and even after he is reinstated, he has no right to seek regularization (See: State of Karnataka vs. Uma Devi (2006) 4 SCC 1). Thus when he cannot claim regularization and he has no right to continue even as a daily wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

25. We would, however, like to add a caveat here. There may be cases where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularized under some policy but the concerned workman terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.

26. Applying the aforesaid principles, let us discuss the present case. We find that the respondent was working as a daily wager. Moreover, the termination took place more than 11 years ago. No doubt, as per the respondent he had worked for 15 years. However, the fact remains that no direct evidence for working 15 years has been furnished by the respondent and most of his documents are relatable to two years i.e. 2001 and 2002. Therefore, this fact

becomes relevant when it comes to giving the relief. Judicial notice can also be taken of the fact that the need of lineman in the telephone department is drastically reduced after the advancement of technology. For all these reasons, we are of the view that ends of justice would be met by granting compensation in lieu of reinstatement. In Man Singh (supra) which was also a case of BSNL, this Court had granted compensation of Rs.2 Lakh to each of the workmen when they had worked for merely 240 days. Since the respondent herein worked for longer period, we are of the view that he should be paid a compensation of Rs. 3 lakhs. This compensation should be paid within 2 months failing which the respondent shall also be entitled to interest at the rate of 12% per annum from the date of this judgment. Award of the CGIT is modified to this extent. The appeal is disposed of in the above terms. The respondent shall also be entitled to the cost of Rs.15,000/-(Rupees Fifteen Thousand only) in this appeal.”

17. As regards back wages, the Hon’ble Supreme Court in **“General Manager, Haryana Roadways v. Rudhan Singh”, 2005 (3) SCT 559**, held that a host of factors must be taken into account before awarding full back wages once the order of termination of service has been held to be illegal. Further held that the manner and method of selection and appointment, i.e. whether after proper advertisement of the vacancy or inviting applications from the employment exchange, nature of appointment, namely, whether *ad hoc*, short term, daily wage, temporary or permanent in character, any special qualification required for the job are also required to be considered. The court is also required to consider the length of service, which the workman had rendered with the employer. The relevant findings are extracted hereunder:-

“There is no rule of thumb that in every case where the Industrial Tribunal gives a findings that the termination of service was in violation of Section 25-F of the Act, entire back wages should be

awarded. A host of actors like the manner and method of selection and appointment i.e. whether after proper advertisement of the vacancy or inviting applications from the employment exchange, nature of appointment, namely, whether ad hoc, short term, daily wage, temporary or permanent in character, any special qualification required for the job and the like should be weighed and balanced in taking a decision regarding award of back wages. One of the important factors, which has to be taken into consideration, is the length of service which the workman had rendered with the employer. If the workman has rendered a considerable period of service and his services are wrongfully terminated, he may be awarded full or partial back wages keeping in view the fact that at his age and the qualification possessed by him he may not be in a position to get another employment. However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate. Another important factor, which requires to be taken into consideration is the nature of employment. A regular service of permanent character cannot be compared to short or intermittent dailywage employment though it may be for 240 days in a calendar year.”

18. In ***“Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) & Others”***, (2013) 10 SCC 324, the Hon’ble Supreme Court, while following the ratio laid down in ***“M/s. Hindustan Tin Works Pvt. Ltd. Vs. The Employees of M/s Hindustan Tin Works Pvt. Ltd. and others, AIR 1979 Supreme Court 75”***, held that in cases of wrongful termination of service, though reinstatement with continuity of service and back wages is the normal rule, the same is subject to the rider that while adjudicating the issue of back wages, the Court may take into consideration the length of service of the employee/workman, nature of misconduct, if any, found proved against him, the financial condition of the employer, and

similar other factors. Various other factors were also culled out to be considered for granting relief of back wages. The relevant observations, in this regard, are extracted hereinafter:-

“33. The propositions which can be culled out from the aforementioned judgments are:

i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

ii) The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the Court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors.

iii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averment about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.

iv) The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and / or certified standing orders, if any, but holds that the pun-

ishment was disproportionate to the misconduct found proved, then it will have the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then there will be ample justification for award of full back wages.

v) The cases in which the competent Court or Tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the concerned Court or Tribunal will be fully justified in directing payment of fullback wages. In such cases, the superior Courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc., merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The Courts must always be kept in view that in the cases of wrongful / illegal termination of service, the wrongdoer is the employer and sufferer is the employee/workman and there is no justification to give premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.

vi) In a number of cases, the superior Courts have interfered with the award of the primary adjudicatory authority on the premise that finalization of litigation has taken long time ignoring that in majority of cases the parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the termination of his service and finality given to the order of reinstatement. The Courts should bear in mind that in most of these cases, the employer is in an advantageous position vis-à-vis the employee or workman. He can avail the services of best legal brain for

*prolonging the agony of the sufferer, i.e., the employee or workman, who can ill afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in **Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited** (supra)."*

*vii) The observation made in **J.K. Synthetics Ltd. v. K.P. Agrawal** (supra) that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of three Judge Benches referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of reinstatement of an employee/workman."*

19. Applying the ratio laid down in the judicial pronouncements (supra) governing the grant of reinstatement and back wages, the facts of the present case now fall for consideration.

20. It is not in dispute that the workman was initially engaged as a Conductor on a purely contractual basis for a period of 90 days, i.e. from 10.03.1993 to 07.06.1993, on a consolidated pay of ₹1,400/- per month, to meet the exigencies of temporary traffic rush. His contractual engagement was thereafter extended, and it stands admitted that he continued to work only on a contractual basis from 10.03.1993 till 04.12.1993, i.e. for a period of approximately nine months. The relevant extract of the offer of appointment dated 10.03.1993 reads as under:-

"You are hereby offered a purely temporary and fortuitous appointment of conductor in the Haryana Roadways, Panipat for a period of 90 days, w.e.f. 10.3.93 to 7.6.93, on contractual basis to cope with temporary rush of traffic.

2. Your services shall automatically stand terminated on 7.6.93 A.N. without any notice and no compensation of any type will be admissible to you on account of termination on 7.6.93 A.N.

3. During the period of appointment, you will get a consolidated

salary of ₹ 1400/- P.M.

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21. At the initial stage, the workman did not seek reinstatement. Instead, he preferred a claim petition under Section 15 of the Payment of Wages Act claiming wages for the period from November, 1993 to May, 1994. The competent authority, after appreciating the evidence adduced by the parties, vide order dated 26.06.1996, held the workman entitled to wages only for the period from 16.11.1993 to 04.12.1993, i.e. for the period during which he actually worked with the management. The order dated 26.06.1996 was duly produced before the Labour Court as Ex. W-4.

22. The workman submitted a demand notice for the first time on 29.08.1998, nearly five years after the cessation of his employment, which ultimately resulted in the passing of the impugned award in the year 2000 in his favour. The impugned award has been assailed by the management through filing the instant writ petition. While issuing notice of motion on 26.02.2001, this Court stayed the operation of the impugned award subject to compliance with the provisions of Section 17-B of the I.D. Act. It is not in dispute that since then, for nearly 25 years, the workman has been receiving benefits under Section 17-B of the Act without rendering any service.

23. The cumulative appreciation of the factual matrix clearly establishes three undisputed aspects: (i) the workman was engaged purely on a contractual basis; (ii) he rendered service with the management for about nine months; and (iii) his termination was held to be illegal solely on account of non-conduct of a departmental enquiry and non-compliance with the mandatory provisions relating to retrenchment compensation. It

is thus not a case involving any unfair labour practice on the part of the management, but rather one arising out of unauthorized absence from duty. The action of the management was held illegal by the Labour Court only due to procedural infirmities.

24. Accordingly, while following the ratio laid down by the Hon'ble Supreme Court in *Jagbir Singh and Bhurumal's case (supra)*, this Court is of the considered view that the impugned award warrants interference to the limited extent that the relief of reinstatement with continuity of service and back wages cannot be sustained. Instead, the workman shall be entitled solely to a lump-sum monetary compensation.

25. The reliance placed by learned counsel for the workman upon the judgment in *Jayantibhai Raojibhai Patel's case (supra)* for claiming back wages and retiral benefits is misconceived. In the said case, there was no adjudication on the issue of entitlement to retiral benefits. The observations made therein were purely factual, noting that such benefits were released by the department pursuant to an order of reinstatement passed by the High Court. Moreover, there was no issue for consideration regarding the nature of employment, whether contractual or regular. Consequently, the said judgment does not come to rescue of the workman for claiming relief of retiral benefits.

26. Now, in order to determine the quantum of compensation payable to the workman, it would be appropriate to refer to the judgment rendered by a Division Bench of this Court in *CWP-11057-2001, State of Haryana v. Surjeet and another, decided on 30.07.2025*, wherein the workman was held entitled to lump sum compensation of ₹50,000/- for each completed year of service. The relevant observations are as follows:

“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.”

27. In the present case, the workman rendered approximately 09 months of service with an unblemished record. Having regard to the totality of the facts, this Court is of the considered view that it would meet the ends of justice to award the workman ₹1,00,000/- as lump sum compensation.

28. The management is directed to remit the aforesaid amount to the workman within six weeks from the receipt of a certified copy of this order, failing which workman shall be entitled to 9% interest per annum.

29. **Disposed of accordingly.**

30. Pending application(s) also stand disposed of accordingly.

December 12, 2025
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No