

CWP No. 853 of 1996 (O&M) and
CWP No. 16158 of 2002 (O&M)

2025:PHHC:078442



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

(212)

**CWP No. 853 of 1996 (O&M)
Date of Decision : 03.07.2025**

Central State Farm, Hisar through its Director

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar and
another**

...Respondents

(212/2)

CWP No. 16158 of 2002 (O&M)

Central State Farm through its Director, Hisar

...Petitioner

Versus

Sahi Ram and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ajit Singh Lamba, Advocate for the petitioner
in both cases.

Mr. Shireesh Gupta, Advocate for respondent-workman
in both cases.
(Joined through Video Conferencing)

Harsimran Singh Sethi J. (Oral)

1. By this common order, two writ petitions, the details of which have been given in the heading, are being decided as both these petitions involve the same question of law on similar facts.

2. Certain facts need to be mentioned for the correct appreciation of the issue in hand.



3. The respondent-workman was appointed on the post of L.D.C. on a particular pay scale of ₹260/- - 400/- on ad hoc basis for a period of six months. The said order of appointment was passed on 22.12.1988. On expiry of before mentioned six months, a fresh order of appointment was passed appointing the respondent-workman for a period of further six months on 23.06.1989 and on the expiry of the said period, vide order dated 06.12.1989, the respondent-workman was again appointed for a period of six months till 25.06.1990.

4. After 25.06.1990, no further extension was granted by the Management and the services of the respondent-workman came to an end. Thereafter, the respondent-workman filed a Civil Suit challenging the non-extension of his services but was not granted any interim order and thereafter, the respondent-workman filed a writ petition before this Court claiming reinstatement with full back wages and continuity in service, which writ petition was dismissed on the ground that the said relief has already been raised by the respondent-workman before the Civil Court, which remedy should be exhausted.

5. Thereafter, the Civil Suit filed by the respondent-workman was withdrawn and after withdrawing the same, a claim was raised under Industrial Disputes Act, 1947 (hereinafter referred to as '1947 Act'). The claim raised by the respondent-workman was that he had worked for more than 240 days but Section 25F was not complied with, which violates the provisions of 1947 Act hence, the termination of the services of the



respondent-workman should be declared illegal and he should be reinstated in service with continuity and back wages.

6. The contentions raised by the petitioner before the Labour Court was that once the respondent-workman had initiated proceedings before the High Court, which was dismissed and even the respondent-workman filed a Civil Suit which was also withdrawn, he could not have raised the grievance under 1947 Act.

7. Further, on merits a plea was raised that the present case will not be covered under Section-2(oo)(bb) of 1947 Act, the definition of retrenchment so as to dis entitle the claim of reinstatement as well as the retrenchment compensation as envisaged under Section 25-F of 1947 Act hence, the claim of the respondent-workman is liable to be rejected.

8. By an Award dated 02.11.1995 (Annexure P-6), the claim of the respondent-workman was accepted by the Labour Court holding that the retrenchment compensation was not paid and the claim of the Management that Section-2(oo)(bb) of 1947 Act is applicable was also not accepted and the respondent-workman was reinstated in service with continuity and full back wages, which Award is under challenge in the present petition being CWP No. 853 of 1996.

9. While issuing notice of motion, the operation of the impugned Award dated 02.11.1995 (Annexure P-6) was stayed, which continues to operate even as of now.

10. Learned counsel for the petitioner argues that first of all, the appointments given to the respondent-workman were tenure appointments



which came to an end automatically and, therefore, keeping in view the definition of retrenchment given under Section-2(oo)(bb) of 1947 Act, any appointment which comes to an end due to non-extension of the contract will not be treated as a retrenchment, hence, no retrenchment compensation was required to be paid to the respondent-workman, which fact has been ignored by the Labour Court while granting the relief of reinstatement with continuity in service along with full back wages to the respondent-workman vide Award dated 02.11.1995 (Annexure P-6).

11. Learned counsel for the petitioner argues that further, after the dismissal of the writ petition on the ground that the Civil Suit has been filed for the same cause of action, when the said Civil Suit was withdrawn, no further proceeding under 1947 Act could be initiated as, the respondent-workman in his wisdom availed a proper remedy available to him qua the termination of his services and after the withdrawal of the Civil Suit, no proceedings under 1947 Act could have been initiated.

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

13. It may be noticed that the arguments which have been raised by the learned counsel for the petitioner are meritorious. It is a conceded fact that the appointment orders of the respondent-workman have been brought on record as Annexures P-1 to P-3. The said orders clearly show that the appointment was on temporary basis and for a particular period which came to an end due to non-extension of the contract of service of the respondent-workman by the petitioner-Management. In order to appreciate whether,



Section 25F of 1947 Act will operate in the facts and circumstances of the present case of the respondent-workman, Section-2(oo)(bb) needs to be looked into. Section-2(oo)(bb) of 1947 Act is as under :-

“Section-2(oo)(bb):- “retrenchment” means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include :-

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

3 [(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or].”

14. A bare perusal of the above reproduction would show that where an appointment of a workman comes to an end due to non-extension of the service contract, the same is not to be treated as retrenchment, hence, in the present case, the services of the respondent-workman which were terminated due to non-extension of the service contract after 25.06.1990 will not amount to retrenchment under Section-2(oo)(bb) of 1947 Act.

15. The retrenchment compensation is only available in case the services have been retrenched. Once, the case of the respondent-workman is not covered under the definition of retrenchment, no retrenchment



compensation was required to be paid by the Management. The Labour Court has totally misread the facts as well as the provisions of law while granting the relief of reinstatement with continuity in service with full back wages to the respondent-workman by the impugned Award dated 02.11.1995 (Annexure P-6) and hence, has to be treated as perverse to the facts as well as the law which has been brought on record.

16. Further, it is a conceded fact, which has gone un-rebutted, that a Civil Suit was filed by the respondent-workman against the order of termination as his service contract was not extended. During the pendency of the said Civil Suit, the respondent-workman also initiated proceedings before this Court by filing a writ petition, which writ petition was dismissed on the ground that the respondent-workman has already availed the remedy before the Civil Court.

17. It has also been brought on record that the said Civil Suit was withdrawn by the respondent-workman on 10.09.1990. Once, the said Civil Suit had also been withdrawn and the writ petition was also dismissed, without there being any liberty granted by the competent Court, the other remedy available to the respondent-workman under 1947 Act could not have been initiated. The Labour Court did not discuss the said issue keeping in view the facts which were brought on record, wherein, a specific issue was raised that the remedy availed by the respondent-workman under 1947 Act is not maintainable keeping in view the dismissal of the writ petition.

18. Keeping in view the totality of the facts and circumstances in the present case, the Award dated 02.11.1995 (Annexure P-6) passed by the



Labour Court is perverse to the facts and the evidence and provisions of 1947 Act hence, cannot be sustained in the eyes of law and the same is accordingly set-aside.

19. It is made clear that any amount paid to the respondent-workman during the pendency of the writ petition under Section 17B of 1947 Act will not be recovered and the same will be retained by the respondent-workman.

20. Qua CWP No. 16158 of 2002, the Award dated 05.09.2002 (Annexure P-4) passed by the Labour Court is under Section 33-C(2) of 1947 Act and the relief given is as under :-

“RELIEF;

15. Sequal to the finding on above issue, this application is hereby disposed of accordingly against the respondent-management and in favour of the applicant Sahi Ram to the effect that the applicant Sahi Ram will be paid, in future, the wages which the persons similarly situated are getting from the respondents.”

21. A bare perusal of the above would show that the relief was only granted prospectively from future and the Award was passed on 05.09.2002 on which date, the respondent-workman was not in service, hence, the same does not cause any prejudice to the petitioner, therefore, no ground is made out for any interference with the aforementioned Award.

22. Keeping in view the totality of the circumstances, the writ petition being CWP No. 853 of 1996 challenging the Award dated 02.11.1995 (Annexure P-6) is allowed and the impugned Award is set-aside.



The writ petition being CWP No. 16158 of 2002, no prejudice is caused to the petitioner keeping in view the relief granted to the respondent-workman, the same is disposed of with the observation that no interference of this Court is called for.

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

24. A photocopy of this order be placed on the file of connected cases.

July 03, 2025
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No