



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

**CWP-9597-1999 (O&M)
Date of Decision : 07-04-2025**

**EXECUTIVE ENGINEER, H.V.P.N.L., T&S Mtc. DIVISION
FARIDABAD**

.....Petitioner

VERSUS

PRESIDING OFFICER, LABOUR COURT, FARIDABAD AND ANR.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Padam Kant Dwivedi, Advocate
 for the petitioner.

 Mr. Harsh Aggarwal, Advocate
 for respondent No.2.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the prayer of the petitioner is that vide award dated 17.12.1998 (Annexure P-3), which is an *ex parte* award, the benefit of reinstatement in service along with full backwages has been granted to the respondent No.2-Workman.

2. Learned counsel for the petitioner argues that in the present case, the respondent No.2-Workman was selected on the post of Shift Attendant by way of direct recruitment, which recruitment was challenged in CWP No.7387 of 1993 and the selection of the respondent-Workmen was set aside.

3. The order passed by this Court was challenged before the Hon'ble Supreme Court of India and the judgment of this Court was upheld so as to set aside the selection of respondent No.2-Workman as a Shift

Attendant and keeping in view the fact that the selection of the respondent-Workman No.2 was set aside by order of this Court, he was relieved from service which relieving was challenged by the respondent No.2-Workman by raising a grievance under the Industrial Disputes Act, 1947, which has been decided by passing the impugned award dated 17.12.1998 (Annexure P-3).

4. Learned counsel for the petitioner submits that an *ex parte* award has been passed granting the benefit of reinstatement along with full backwages ignoring the stand taken before the Labour Court-cum-Conciliation Officer that the service of the respondent No.2-Workman was terminated in accordance to the judgment of the competent court of law.

5. Learned counsel for the petitioner further submits that once, the selection in pursuance to which the appointment was given to the respondent No.2-Workman has been set side, which order has attained finality by the Hon'ble Supreme Court of India granting the benefit of reinstatement along with backwages to the respondent No.2-Workman upon the said termination is incorrect.

6. Learned counsel for the petitioner submits that while issuing notice of motion, the impugned award was stayed by the order dated 19.07.1999.

7. Learned counsel appearing on behalf of the respondent No.2-Workman submits that the respondent No.2-Workman was not made a party to the litigation by which, the selection in pursuance to which the respondent No.2-Workman was appointed, was set aside hence, the selection of the respondent No.2-Workmen even if set aside, cannot be made applicable upon the respondent No.2-Workman.

8. Learned counsel for the respondent No.2-Workman further submits that by the time, the respondent No.2-Workman was relieved from services, he had completed 2 years in service with the petitioner hence, the petitioner-Department were under obligation to grant the benefit qua the retrenchment which was not granted hence, the provisions of Industrial Disputes Act, 1947 stood violated.

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

10. Though, it would have been appreciated that the petitioner appeared before the labour Court to apprise it of all these facts so as to enable the Labour Court pass the correct order. It is only because the petitioner was proceeded *ex part* that, such kind of an award has been passed by the Labour Court. From the records, Annexure P-2, the stand has been taken by petitioner before the Labour-cum-Conciliation Officer informing about the judgment of the Court in accordance to which, services of respondent No.2-Workman was terminated and the said facts have been brought before the Officers of the authorities concerned. Annexure P-2 was the part of the reference raised by the respondent No.2-Workman hence, it was incumbent upon the Labour Court to find out as to why, the service of the respondent No.2-Workman was terminated.

11. In the reply to the demand notice, it has been clearly mentioned by the petitioner-Management that the services of the petitioner have been terminated as per the judgment of this Court in CWP No.7387 of 1993, which has been upheld by the Apex Court and the said setting aside of the selection by which respondent No.2-Workman was appointed has already been brought to the notice of all by public notice dated 23.09.1997.

12. The Labour Court has failed to take into consideration the said stand of the petitioner-Management while passing the impugned order. Even if, the petitioners were proceeded *ex parte*, the stand of the petitioner which was available with the Labour Court (Annexure P-2), should have been taken into consideration rather than deciding upon the issue merely on the basis of the statement of the respondent No.2-Workman. Once, the services of the respondent No.2-Workman were terminated in accordance with the orders passed by the competent Court of Law, the benefit of reinstatement granted by the Labour Court along with continuity and backwages, is contrary to the decision of this Court in CWP No.7387 of 1993, which has already attained finality by the Hon'le Supreme Court of India.

13. The argument of the learned counsel for the respondent No.2-Workman is that the workman had worked for a period of 2 years hence, he was entitled for retrenchment compensation under the Industrial Disputes Act, 1947, which was not given to him hence, the respondent No.2-Workman was rightly reinstated in service.

14. While raising the said argument, learned counsel for the respondent No.2-Workman has ignored that the services of the respondent No.2-Workman were not retrenched but were rather terminated in accordance with the directions given by this Court, which orders were eventually upheld by the Hon'ble Supreme Court of India. Once, it was not a case of retrenchment of service and but of termination of the services in accordance to the order passed by this Court, no retrenchment compensation was required to be paid to the respondent No.2-Workman. Action was being taken by petitioner-Management to implement the judgment of the competent court of law hence, the question of the grant of retrenchment

compensation does not arise in the present case so as to treat the termination of the services of the respondent No.2-Workman as bad.

15. Keeping in view the totality of the circumstances, once the services of the respondent No.2-Workman were terminated in compliance of the order passed by this Court in CWP No.7387 of 1993, the impugned award dated 17.12.1998 (Annexure P-3) passed by the Labour Court is contrary to the judgment of this Court hence, the same cannot be upheld and the same is accordingly set aside.

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

07-04-2025

Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO