



248 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13982-1999 (O&M)

Date of Decision : 07-01-2025

MUNICIPAL COUNCIL HISSAR THROUGH ITS PRESIDENT

.....Petitioner

VERSUS

PRESIDING OFFICER LABOUR COURT HISSAR & ANR.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr.Kanverpal Singh Gill, Advocate for
 Mr. Dheeraj Chawla, Advocate
 for the petitioner.

 Mr. Shailender Mohan, Advocate
 for the respondent No.2.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the Award of the Labour Court dated 26.08.1998 (Annexure P-10) by which, the claim petition filed by the respondent No.2-workmen challenging his termination was held to be bad and he was directed to be reinstated in service with continuity and all consequential benefits and with 25% of the back wages from 20.02.1993 onwards till the date of reinstatement.

2. Learned counsel for the petitioner argues that the respondent No.2-employee was not appointed by the authority competent to do so and as there was no sanction for appointment of the employee concerned, the respondent-employee himself stopped coming and thereafter challenged the termination.

3. Learned counsel for the petitioner further submits that once the appointment was without any valid permission from the competent authority, the same was void hence, no benefit of a void appointment can be allowed in favour of an employee so as to direct the reinstatement and to pay the consequential benefits as well.

4. Learned counsel for the respondent No.2 on the other hand submits that the respondent No.2 employee has worked for the period starting from 06.01.1988 to 18.10.1988, which is more than 240 days hence, the petitioner were under obligation to grant the benefit of Section 25F before terminating the services of the respondent-employee and the order passed by the Tribunal in the facts and circumstances of the present case is perfectly valid and legal.

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

6. It may be noticed that while issuing notice of motion, the operation of the impugned award dated 26.08.1998 was stayed and the respondent No.2-employee has not been reinstated in service in pursuance to the impugned award.

7. Now, the question which arises for determination before this Court is whether, an appointment which is made without sanction of the competent authority, will give a right to the employee to claim reinstatement or not.

8. In the present case, there was no sanction of the Deputy Commissioner to the appointment of the respondent-employee, which is a conceded fact. Further, as per the petitioner, the respondent-employee had already given an undertaking to the Municipal Council, Hissar/petitioner that

in case, the sanction of the competent authority to his appointment does not come, he will not even claim the salary for the period in question.

9. Keeping in view the said facts once, the appointment of the respondent-employee lacked the sanction of the competent authority, the reinstatement ordered by the Tribunal is without considering the said fact. The only benefit that could have been given is with regard to the salary for the period for which the respondent-employee had worked, which concededly has already been paid to the respondent-employee. The reinstatement of an employee qua a void appointment is not at all envisaged under any law. That being so, once, the appointment of the respondent-employee was without any valid sanction from the competent authority concerned, coupled with the fact that the respondent-employee had already given in writing that he will not even claim the salary in case, his appointment is not sanctioned by the competent authority and it is also a conceded fact that no sanction was given at any point of time by the Deputy Commissioner to the appointment of the respondent employee hence, the order directing the reinstatement of the employee concerned cannot be sustained. The award of the Labour Court dated 26.08.1998 (Annexure P-10) is accordingly set aside qua the grant of reinstatement to the respondent-employee.

10. Further, as the respondent-employee has served the petitioner-Institution for a period of more than 240 days, keeping in view the provisions of Section 25F of the Industrial Disputes Act as well as the law laid down by the Division Bench in LPA No.1326 of 2023 titled ***“Pardeep Kumar Sharma Vs. Commissioner and Secretary to Govt. of Haryana and ors.”***, decided on 09.04.2024, which law has been settled by the Hon’ble

Supreme Court of India as well the petitioner is directed to compensate the respondent-employee with a sum of Rs.50,000/- for illegal termination as the same was done without following the requisites of Section 25F of the Industrial Disputes Act.

11. The present petition is allowed in above terms.
12. Pending application, if any, also stands disposed of.

07-01-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO