

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

1. CWP-8887-2025 (O&M)

2. CWP-8913-2025 (O&M)

3. CWP-8941-2025 (O&M)

4. CWP-8944-2025 (O&M)

5. CWP-8947-2025 (O&M)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Vermani Advocate with

Mr. Aditya Vermani, Advocate for the petitioner(s).

HARSIMRAN SINGH SETHI, J. (Oral)

1. Present are the bunch of five writ petitions, the details of which are mentioned in the heading involve common question of law in the context of common set of facts and thus they are being decided by a common order.

2. In the present bunch of petitions, the grievance being raised by the petitioner(s) is that despite the fact that retrenchment compensation was paid to the Workman under Section 25F of the Industrial Disputes Act, 1947 but still, the Labour Court has come to the conclusion that as Clause (c) of Section 25F of the Industrial Disputes Act, 1947 has not been complied with hence, the termination of the services of the respondent-Workmen was bad and a compensation has been granted to be paid by the petitioner(s).

3. Learned counsel for the petitioner(s) argues that the Clause (c) of the 25F of the Industrial Disputes Act, 1947 is only directory and not mandatory and non-compliance of the said Clause will not give any right to claim violation of Section 25F of the Industrial Disputes Act, 1947 so as to grant compensation.

4. I have heard learned counsel for the petitioner(s) and have gone through the records of the present case with his able assistance so as to grant compensation.

5. The only claim raised by the petitioners is that non-compliance of Clause (c) of Section 25F of the Industrial Disputes Act, 1947 will not render the retrenchment illegal.

6. It may be noticed that the said question of law came up for consideration before the Hon'ble Supreme Court of India in **Civil Appeal**

No. 1020 of 2011, titled as Raj Kumar versus Director of Education and others, decided on 13.04.2016, wherein it has been held that even if the section 25F (c) of the Industrial Disputes Act, 1947 is not complied with, the same will be violation of the Section 25F of the Industrial Disputes Act, 1947.

6. It may be noticed that a bare perusal of judgment in **Raj Kumar's case (Supra)**, shows the Hon'ble Supreme Court of India has held that Section 25F(c) can be complied with even after the passing of the order of retrenchment. Relevant paragraph No. 25 of the judgment is as under:-

“25. Further, even the decision in the case of Bombay Journalists (supra) does not come to the rescue of the respondents. On the issue of interpretation of Section 25F(c) of the ID Act, it was held as under:

“The hardship resulting from retrenchment has been partially redressed by these two clauses, and so, there is every justification for making them conditions precedent. The same cannot be said about the requirement as to clause (c). Clause (c) is not intended to protect the interests of the workman as such. It is only intended to give intimation to the appropriate Government about the retrenchment, and that only helps the Government to keep itself informed about the conditions of employment in the different industries within its region. There does not appear to be present any compelling consideration which would justify the making of the provision prescribed by clause (c) a condition precedent as in the case of clauses (a) & (b). Therefore, having regard to the object which is intended to be achieved by clauses (a) & (b) as distinguished from the object which clause (c) has in mind, it would not be unreasonable to hold that clause (c), unlike clauses (a) & (b), is not a condition

precedent.”

(emphasis laid by this Court)

Thus, this Court read the ID Act and the relevant Rules thereunder together and arrived at the conclusion that Section 25F(c) is not a condition precedent for retrenchment. By no stretch of imagination can this decision be said to have held that there is no need for industries to comply with this condition at all. At the most, it can be held that Section 25F(c) is a condition subsequent, but is still a mandatory condition required to be fulfilled by the employers before the order of retrenchment of the workman is passed. This Court in the case of Mackinnon Mackenzie & Company Ltd. v. Mackinnon Employees Union⁵ held as under:

“Further, with regard to the provision of Section 25F Clause (c), the Appellant-Company has not been able to produce cogent evidence that notice in the prescribed manner has been served by it to the State Government prior to the retrenchment of the concerned workmen. Therefore, we have to hold that the Appellant-Company has not complied with the conditions precedent to retrenchment as per Section 25F Clauses (a) and (c) of the I.D. Act which are mandatory in law.”

In the instant case, the relevant rules are the Industrial Disputes (Central) Rules, 1957. Rule 76 of the said Rules reads as under:

“76. Notice of retrenchment.- If any employer desires to retrench any workman employed in his industrial establishment who has been in continuous service for not less than one year under him (hereinafter referred to as 'workman' in this rule and in rules 77 and 78), he shall give notice of such retrenchment as in Form P to the Central Government, the Regional Labour Commissioner (Central) and Assistant Labour Commissioner (Central)

and the Employment Exchange concerned and such notice shall be served on that Government, the Regional Labour Commissioner (Central), the Assistant Labour Commissioner (Central), and the Employment Exchange concerned by registered post in the following manner :-

(a) where notice is given to the workman, notice of retrenchment shall be sent within three days from the date on which notice is given to the workman;

(emphasis laid by this Court)

Rule 76(a) clearly mandates that the notice has to be sent to the appropriate authorities within three days from the date on which notice is served on the workman. In the instant case, the notice of retrenchment was served on the appellant on Page 29 29 07.01.2003. No evidence has been produced on behalf of the respondents to show that notice of the retrenchment has been sent to the appropriate authority even till date.”

7. Learned counsel for the petitioner(s) has not been able to rebut the said principle of law. In case, the said law is applicable in the facts and circumstances of the present case, the provisions of Section 25F of the Industrial Disputes Act, 1947 have been violated. That being the position, the award is not contrary to the provisions of the 1947 Act or the settled principle of law noticed hereinbefore.

8. No other argument is raised.

9. Keeping in view the above, no ground is called for any interference by this Court in the facts and circumstances of the present bunch of cases.

10. Present bunch of five writ petitions stands dismissed.

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

CWP-8887-2025 (O&M) and other connected cases

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12. Photocopy of this order be placed on the files of other connected cases.

24-04-2025

Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO