



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

**LPA-1118-2025 (O&M)**

Date of Decision:-**30.04.2025**

**THE BADHOUCHHI KALAN MPCASS LTD AND OTHERS**

... Appellants

Versus

**THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, SAS NAGAR  
MOHALI AND ANOTHER**

... Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH  
HON'BLE MR. JUSTICE ALOK JAIN**

Present:- Mr. Abhivadya Sood, Advocate  
for the appellants.

Ms. Arundhati Kulshreshtha, AAG, Punjab.

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**ALOK JAIN J.**

The instant intra Court appeal is directed against the order dated 10.03.2025 passed by the learned Single Judge, whereby the writ petition filed by the appellants was dismissed.

2. Before the learned Single Judge, the appellants had laid challenge to the award dated 24.10.2024 (Annexure P-1 with the writ petition) passed by the Industrial Tribunal, SAS Nagar (Mohali) (for short 'the Tribunal'), holding the respondent-workman entitled for reinstatement with continuity in service with 50% back wages.

3. Briefly stated, the factual matrix is that the respondent-workman raised a claim against termination of his services on 30.12.2015 without following the due procedure of law much less, issuance of any notice; initiation of any domestic enquiry or payment of compensation as mandated under the provisions of the Industrial Disputes Act, 1947 (for short 'the Act').



The said claim of the respondent-workman was contested by the appellants-Management asserting it to be based on misrepresentation. However, as noticed above, the Tribunal had answered the reference in favour of respondent-workman, which was upheld by the learned Single Judge, while dismissing the writ petition.

4. Learned counsel appearing for the appellants after taking us through the factual matrix as detailed above, has submitted that both, the learned Single as also the Tribunal, fell in error for not considering the fact that the respondent-workman at the very first instance, was not eligible for appointment, as he was appointed against the statutory Rules regulating the functioning and appointment of staff. It is further submitted that the respondent-workman was more than 35 years of age, when he was taken into service and more so, he was not appointed against a sanctioned post. It is also argued that the appellants-Management never granted the approval for the post held by the respondent-workman and it was only a temporary appointment and, therefore, no legal right vested in the respondent-workman to raise the claim. It is further argued that the appellants-Management had raised the aforesaid pleas before the Tribunal and had also led evidence in this regard, but the same was wrongly discarded.

5. Learned counsel for the appellants has relied upon the judgment of the Hon'ble Apex Court in ***Employers in relation to the Management of Bhalgora Area (Now Kustore Area) of M/s Bharat Coking Coal Ltd. Vs. Workmen being represented by Janta Mazdoor Sangh, 2021 (4) SCT 83***, to contend that no relief could be granted to an employee appointed against the statutory Rules. It is, thus, contended that in terms of the aforesaid dicta of



the Hon'ble Apex Court, the appellants were not obligated or bound to follow the provisions of the Act, while terminating the services of the respondent-workman.

6. Heard learned counsel for the appellants and have also gone through the impugned order passed by the learned Single Judge.

7. In his testimony MW-1 Rajinder Singh, appearing on behalf of the Management clearly admitted that the respondent-workman had worked as a security guard with the appellants from 17.05.2010 to 30.12.2015 and his services were terminated without notice, charge-sheet, inquiry or payment of retrenchment compensation. The said witness had further deposed that the respondent-workman was not paid the minimum wages. It was, thus, found by the Tribunal that the appellants-Management had failed to establish the allegations on the basis thereof, the services of the respondent-workman were terminated. Still further, it was also established on record that after the termination of the services of the respondent-workman, another person was appointed in his place, which belies the stand of the appellants-Management that the respondent-workman was appointed against the post which was not sanctioned.

8. The contention raised by the appellants that the appointment of the respondent-workman was illegal, being not as per the statutory Rules, does not come to their rescue. The judgment in ***Employers in relation to the Management of Bhalgora Area (Now Kustore Area) of M/s Bharat Coking Coal Ltd. (supra)***, relied upon by the appellants, is distinguishable on the facts as in the said case, the erring officials of the employer, who had employed the workmen illegally, were proceeded against by taking



disciplinary action, whereas it is not the factual position involved in the present proceedings. Upon a specific query having been put to the counsel for the appellants as to whether any action had been taken against the concerned authority/official, who had employed the respondent-workman against the provisions of the Rules, the answer was in negative. Although, it is well settled principle of law that public employment secured by practicing a fraud, is void-ab-initio, yet the facts in the present case do not demonstrate that the respondent-workman had misrepresented or concealed any material fact, which could resultantly be called as fraud.

9. Since, the respondent was workman under the Act and he had worked for 240 days in a calendar year, preceding his retrenchment and was performing his duties diligently, when his services was terminated on 30.12.2015 without complying with the mandatory provisions of the Act, we find that the Tribunal was perfectly justified in passing the award dated 24.10.2024 and the learned Single Judge, has rightly upheld the same.

10. In the light of above, we do not find that the impugned order suffers from any illegality or perversity, warranting interference by this Court in the present appeal and accordingly the same stands dismissed.

11. Pending miscellaneous application(s), if any, are disposed of accordingly.

**(SUDHIR SINGH)**  
**JUDGE**

**(ALOK JAIN)**  
**JUDGE**

**30.04.2025**  
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Whether reasoned / speaking?  
Whether reportable?

Yes / No  
Yes / No