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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Dated: 27.01.2025

1. CWP No.13729 of 2013 (O&M)

M/S ESCORTS LTD AND ORS.

.....Petitioner(s)

VERSUS

P.O., LABOUR COURT-II, FARIDABAD AND ORS.

.....Respondent(s)

2. CWP-16504-2011 (O&M)

SHANTI DEVI

.....Petitioner(s)

VERSUS

P.O., LABOUR COURT-II, FARIDABAD AND ORS.

.....Respondent(s)

3. CWP-17763-2011 (O&M)

BHUDEV SINGH

.....Petitioner(s)

VERSUS

P.O., LABOUR COURT-II, FARIDABAD AND ORS.

.....Respondent(s)

and

4. CWP-17793-2011 (O&M)

MEENA ASWAL

.....Petitioner(s)

VERSUS

P.O., LABOUR COURT-II, FARIDABAD AND ORS.

.....Respondent(s)

5. CWP-22971-2011 (O&M)

ANURADHA SHARMA AND ORS.

.....Petitioner(s)

VERSUS

P.O., LABOUR COURT-II, FARIDABAD AND ORS.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Manu K.Bhandari, Advocate with
Ms. Manu Gaur, Advocate for the
petitioner in CWP No.13729 of 2011 and for the
respondent Nos.2 and 3 in CWP No.16504 of 2011.

Ms. Promila Nain, Advocate and
Ms. Isha Dhingra, Advocate and
Mr. Harveen Mehta, Advocate
For the petitioners in CWP No.16504 of 2011,
CWP No.17763 of 2011 and CWP No.17793 of 2011.

Mr. Gaurav Tangri, Advocate
For the petitioner in CWP No.22971 of 2011.

Mr. Tarun Kumar Sharma, Advocate
For respondent No.2 in CWP No.13729 of 2013.

Date of Decision : 27-01-2025

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present bunch of petition(s), the challenge is to the award DATED 29.03.2013 (Annexure P-15) passed by the Labour Court except CWP No.13729 of 2013 filed by the M/s Escorts Limited, the remaining have been filed by the workmen concerned challenging the award which have come against them whereby, the retrenchment of the workmen has been approved.

2. The grievance of the petitioner in CWP No.13279 of 2013 M/s Escorts Limited is that two contradictory awards have been passed wherein, in respect of the similar employee, the retrenchment order has been upheld whereas, in CWP No.13729 of 2013, the retrenchment order has been set aside.

3. Certain facts may be mentioned for the correct appreciation of the issue in hand.

4. The respondent-workmen were initially working in the Telecommunication Division of the Escorts on various posts. While working on the said post, Escorts Telecommunication Division was taken over by Escorts Communication Ltd. and the services of the respondent-workmen who were working with the Telecommunication Division, were shifted to the new company namely Escorts Communication Ltd.

5. The respondent-workmen continued working in the said Escorts Communication Ltd. when the said Escorts Communication Ltd. started going into losses and it was decided that the 48 employees working in the said Escorts Communication Ltd. be retrenched. The petitioner(s) in writ petitions other than CWP No.13729 of 2013 were retrenched along with the respondent(s)-workmen in CWP No.13729 of 2013.

6. The workmen raised the dispute that they are wrongly been retrenched under Section 25F of the Industrial Disputes Act, 1947 dated 30.03.1999 by the Escorts Communication Ltd. on various grounds that there are seven other companies of the Escorts, where, the workmen should have been absorbed, especially when, 26 workmen retrenched have been absorbed in Escorts JCB Limited.

7. The further ground raised was that as the workmen were earlier in Telecommunication Division of the Escorts and they were only transferred to the Escorts Communication Ltd. at a later point of time after their appointment, they should have been sent back to the Telecommunication Ltd. of the Escorts rather than retrenching the services of the employees upon closing of Escorts Communication Ltd.

8. The further argument was raised that two employees, who were on the same post have been as employees retained in Escorts Communication Ltd. whereas 48 employees have been retrenched.

9. Keeping in view the evidence which came on record, the Labour Court, passed a award dated 10.02.2011 wherein, in respect of the claim of the workmen that the retrenchment is bad and the same has violated the provisions of the Industrial Disputes Act, 1947, was rejected and the claim of the workmen was dismissed except in the case of one workmen namely Bhagat Singh, who worked as Cook-cum-waiter whose prayer was allowed by the award dated 29.03.2013. The award dated 29.03.2013 is under challenge at the hands of the workmen and the award dated 10.02.2011 is challenged at the hands of the Escorts Limited.

10. Learned counsel appearing on behalf of the workmen also submits that the grounds raised before the workmen have not been appreciated in the correct perspective by the Tribunal and especially when, all the employees were similarly employed, vide award dated 11.02.2011, the claim of the workmen were rejected whereas the similar claim was accepted later on vide award dated 29.03.2013 hence, the workmen should be treated alike.

11. The similar is the argument of the Escorts Limited that once the claim of the workmen was rejected vide award dated 10.02.2011 passing a contradictory award without there being any differentiating fact on 29.03.2013 is liable to be set aside as the same is inconsistent with the earlier award.

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

13. The first question which has been raised by the learned counsel for the respondent-workmen is that they were initially working in the Telecommunication Division of the Escorts and worked till July, 1994 when it was taken over by the establishment namely Escorts Communication Ltd. and the services of the workmen who were working in the Telecommunication Division of Escorts, were transferred to the new company namely Escorts Telecommunication Limited.

14. Learned counsel for the respondent-workmen further submits that even if it is assumed that the new company was going into losses, the workmen should have been transferred back to the telecommunication division of the Escorts Ltd. as they were only working on the transfer basis.

15. Qua the said argument, it may be noticed that nothing has come on record that after the new company namely Escorts Communication Ltd. was floated the Telecommunication Division remained in existence or even when Escorts Communication Ltd. was closed and Escorts Telecommunication Division was in existence.

16. On being asked to point out any document which has been brought on record qua the existence of Telecommunication Division of Escorts on the day when the services of the workmen were retrenched vide letter dated 01.12.1998, learned counsel for the respondent-workmen has not been able to point out any such evidence.

17. Learned counsel appearing on behalf of the petitioner-Escorts Communication Ltd. once again reiterated that the telecommunication

division of Escorts had already been closed after the new company Escorts Communication Ltd. was created in the year 1994. That being factual position, the workmen remained part and parcel of the Escorts Communication Ltd. when the same was facing losses and the decision was taken to retrench 48 workmen hence, the said action cannot be treated as arbitrary and illegal and the argument of the workmen that they should have been transferred back to its Telecommunication Division, which was not even in existence at the time of retrenchment of the workmen cannot be accepted. Hence, the argument raised on behalf of the respondent-workmen that they should have been transferred back to Telecommunication Division of Escorts rather they being retrenched from services of Escorts Communication Ltd., cannot be accepted.

18. The further argument which has been raised by the learned counsel for the respondent-workmen that out of the 48 retrenched workmen, 26 workmen were absorbed with the Escorts JCB Limited. Hence, once 26 workmen were absorbed in another company of Escorts Ltd., the other remaining workmen should also have been treated in the same manner by absorbing them in the other units of the Escorts Limited including Escorts JCB Ltd. In this regard, a finding has been recorded on the basis of the evidence, which has gone unrebutted that 26 employees were not absorbed but keeping in view their qualifications, they were appointed in the said company afresh. Once, on the basis of the qualification, 26 employees were appointed afresh without there being any benefit of the past service, it cannot be said that it is a case of absorption of 26 retrenched employees out of 48 employees.

19. Learned counsel for the workmen has not been able to rebut the said finding to be perverse in any manner.

20. The last argument which has been raised by the learned counsel appearing on behalf of the respondent-workmen is that two employees were not retrenched, who were working in the Escorts Communication Limited and were senior to the retrenched employees. It may be noticed that in case, any of the senior employee has been retained in the Escorts Communication Ltd., the same will not render the retrenchment of the junior employee as arbitrary or illegal or in violation of the provisions of the Industrial Disputes Act 1947. It is only in case any junior employee has been retained in preference to the senior, the provisions of the Industrial Disputes Act 1947 is to be treated having been violated.

21. On being asked to point out that any employee retained with the Escorts Communication Ltd. was junior to the workmen, no such evidence has been brought on record and proved before this Court.

22. Hence, merely that two workmen were retained, is no ground to declare that the retrenchment of the remaining workmen junior in any manner to the workmen in the respective cadres.

23. No other argument is being raised.

24. Keeping in view the above, the award dated 29.03.2013 which has been passed on the basis of the fact that no interference can be caused at the hands and the writ petitions except CWP No.13729 of 2013 are dismissed.

25. The award dated 29.03.2013 passed by the labour Court in CWP No.13729 of 2013, the same is perverse and does not notice the earlier

award on the same issue where the benefit was declined, which award has already been upheld in the earlier part of this judgment. Once, it is conceded that there is no difference in the workmen in all the petitions, the awards dated 11.02.2011, 10.02.2011 and 29.03.2013 are not perverse to the evidence which has come on record and need no interference.

26. Keeping in view the above, the award dated 29.03.2013 is set aside and the Writ Petition No.13729 of 2013 is allowed.

27. At this stage, learned counsel for the respondent-workmen submits that they were not even given the compensation which they were entitled for by the impugned awards keeping in view the services rendered by them.

28. On being asked, whether the said point was being raised before the Labour Court, learned counsel for the respondent-workmen has not been able to substantiate the same. However, in case the computation of the retrenchment compensation, there is any dispute, the petitioner(s) will be free to approach an appropriate authority for the redressal of their grievance, in case permissible.

29. Writ Petition No.13729 of 2013 is allowed and other petitions i.e. CWP No.16504 of 2011, CWP No.17763 of 2011, CWP No.17793 of 2011 and CWP No.22971 of 2011 are dismissed.

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

27-01-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE:

Whether speaking: YES
Whether reportable: NO