



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

**CWP-20268 of 2019(O&M)
Date of Decision: 04.08.2025**

Bijender Singh

....Petitioner

VS.

State of U.T.(Chandigarh) and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Ram Kumar Saini, Advocate
for the petitioner

Mr. Sanjiv Ghai, Advocate
for respondents No. 2 to 4

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 18.03.2019 whereby Commissioner, Municipal Corporation, Chandigarh has rejected his request to re-engage him.

2. The petitioner joined Municipal Corporation, Chandigarh as daily wager. He was dismissed from service on 06.04.1992. As per respondent, he as per his own volition, stopped working after 25.02.1992. He served demand notice dated 17.11.1992 upon the respondent and the matter came to be referred to Labour Court which vide Award dated 06.10.1997 ordered to reinstate him with continuity of service and 40% back wages. Pursuant to Award of Labour Court, he came to be reinstated. On 16.03.2008, Mr. Pardeep Chhabra, Mayor, Municipal Corporation, Chandigarh alongwith Councillor M.P.S.Chawla and SDE (HQ) conducted



inspection at Lake Club, Sector-5, Chandigarh and Fun Republic, Manimajra. During inspection, following infirmities were found:-

Lake Club, Sector-5, Chandgarh

1. *It was found that three nos of buses were parked by the attendant without issuing the parking slips of Rs. 20 each. The inspection team checked these buses at exit point and confirmed the same from the bus drivers that they have personally paid Rs. 20 each to the attendant of the parking lot.*
2. *It was also seen that helmets were kept there without issuing any slip even though Rs. 1/- per helmet was charged from each customer.*
3. *On the instructions of team and in their presence cash was counted and it was found that there was an excess of Rs. 160/-. The excess cash was seized by the SDE (HQ).*
4. *Further on enquiry from the attendant, the team found that two under-age boys were working as attendants.*
5. *The total number of attendants present were seven.*
6. *As per statement of attendants, they were employed by Sh Bijender Singh, JE Incharge of the paid parking and were paid at the rate Rs. 2000/- to 2500/- for 12 hours duty. The attendants signed their statement in the presence of inspection team.*

Fun Republic, Manimajra

1. *Parking slips were issued for keeping the bags @10/- per bag. There is no provision in terms and conditions for keeping bags. The attendant told that Sh. Bijender Singh had supplied the slips and it was confessed by Sh. Bijender Singh, JE.*



2. *On counting of cash at parking lot, Rs 300/- was found in excess of amount recoverable from slips issued for parking of vehicles. The excess cash was seized by SDE (HQ).*

3. *The attendants stated that they were employed by Sh. Bijender Singh JE and were paid by him @ Rs 2000/-, Rs 2500/-, Rs 3000/-. Copy of statement of attendants are enclosed.*

4. *Total numbers of attendants present were seven at the time of inspection.”*

2. An FIR No. 97 dated 14.05.2008, under Sections 409, 420, 467, 468 and 120-B of IPC came to be registered against the petitioner at Police Station, Sector-3, Chandigarh. The police after completing investigation filed its report and petitioner faced trial. He was acquitted vide judgment dated 12.01.2017 passed by Judicial Magistrate Ist Class, Chandigarh. On the basis of judgment of acquittal, he approached authorities to re-engage him. He preferred CWP No. 37769 of 2018 before this Court seeking direction to respondent to consider him. The petition was disposed of vide order dated 20.12.2018 with a direction to Commissioner, Municipal Corporation, Chandigarh to pass a speaking order in respect of representation of the petitioner. The respondent vide order dated 18.03.2019 rejected his claim.

3. Mr. Raj Kumar Saini, Advocate submits that respondent has rejected claim of the petitioner on the ground that there is no Rule/Notification issued by U.T. Administration regarding re-employment of daily wager after his/her acquittal in a criminal case. The said statement is factually incorrect because three other persons namely Bhola, Thakur Singh and Cheddi Lal who were facing criminal proceedings, have been reinstated



vide orders dated 12.04.2019 and 13.12.2013 respectively. The discrimination is writ large. The respondent has wrongly rejected claim of the petitioner. He has been honourably acquitted, thus, there was no ground to deny him post of Junior Engineer.

4. *Per contra*, Mr. Sanjiv Ghai, Advocate submits that petitioner was acquitted on the ground that two witnesses turned hostile. Mayor, Municipal Corporation, Chandigarh, Councillor and SDE (HQ) who were holding senior positions duly supported case of the prosecution. The petitioner was not a regular employee whereas he was a daily wager. He has no vested or substantive right to claim re-employment.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. From the perusal of record, it is evident that petitioner was not a regular/permanent employees whereas he was a temporary/casual employee. He, as per respondent, stopped working after 25.02.1992. He approached Labour Court which vide Award dated 06.10.1997 reinstated him with back wages and continuity of service. Despite said fact, he was found involved in charging parking fee without issuing slips or slips which were not of the Municipal Corporation. The Trial Court has acquitted him extending benefit of doubt as few witnesses turned hostile.

7. In view of judgment of Hon'ble the Supreme Court in **Ram Lal vs. State of Rajasthan 2023 SCC OnLine SC 618**, the Court while deciding such cases is required to examine the judgment passed by Trial Court because normally it is not mentioned in the order that there is honourable acquittal.



In the case in hand, the FIR was lodged on the complaint of Mayor, Municipal Corporation, Chandigarh. Councillor MPS Chawla and SDE (HQ) besides Mayor duly supported case of the prosecution. Mere fact that petitioner has been acquitted by Trial Court extending benefit of doubt, does not entitle him to reinstatement especially when he was not a permanent employee. The fact that respondent has re-engaged three persons does not create right in favour of the petitioner. There is no vested or fundamental right in favour of the petitioner. It is also settled law that employer is not bound to reinstate despite acquittal of an employee by Trial Court. It is the employer who has to decide taking into account act and conduct of the employee.

8. In the wake of above discussion and findings, this Court does not find it appropriate to direct the respondent to re-engage petitioner as casual/temporary employee.

9. Dismissed.

10. Pending Misc. application(s), if any, shall stand disposed of.

11. Before parting with the judgment, this Court finds it appropriate to direct the respondent to consider observations made hereinabove while considering claim of any other employee. If in future it is found that any employee despite being acquitted on technical grounds has been reinstated, a serious view shall be taken against the Commissioner.

(JAGMOHAN BANSAL)
JUDGE

04.08.2025
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:		No