



224

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

CWP-22256-2016 (O&M)

Date of Decision : 30-04-2025

**CENTRAL INSTITUTE FOR RESEARCH ON BUFFALOES, HISAR
.....Petitioner(s)**

VERSUS

ISHWAR SINGH AND ANR.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Naveen Chopra, Advocate
for the petitioner.

Mr. Surinder Sharma, Advocate
for respondent No.1.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the order dated 11.08.2016 (Annexure P-7) by which, the respondent-Workman has been held entitled for wages from 09.04.2010 till the date of reinstatement till 08.01.2014 in pursuance to the award passed by the Labour Court dated 24.11.2009 (Annexure P-1).

2. Learned counsel appearing on behalf of the petitioner submits that the services of the respondent-Workman was terminated on 20.10.1989, which was made the subject matter of reference raised before the Labour Court and by an award dated 24.11.2009 (Annexure P-1), the terminations of services of the respondent-Workman was held to be bad being in violation of the provisions of the Industrial Disputes Act, 1947 and the Workman was

directed to be reinstated in service within a period of one month from the date of award but was denied of the benefit of backwages.

3. Learned counsel for the petitioner submits that the said award was challenged by the petitioner as well as the respondent-Workman. The challenge at the hands of the petitioner-Department was qua the benefit of reinstatement in service granted to the respondent-Workman whereas, the respondent-Workman was claiming the benefit of backwages which was being denied by the Labour Court and ultimately, both the writ petitions were dismissed by the High Court on 12.03.2012 (Annexure P-2).

4. Learned counsel for the petitioner further submits that against the said decision of the learned Single Judge, an LPA No.253 of 2013 (Annexure P-3) was filed by the petitioner which LPA was ultimately decided on 22.10.2013 upholding the award dated 24.11.2009.

5. Learned counsel for the petitioner submits that after the conclusion of the litigations on 08.01.2014, the respondent-Workman was allowed to join in the service.

6. Learned counsel for the petitioner argues that upon joining in the service, the respondent-Workman claimed the benefit of wages in pursuance to the award dated 24.11.2009 (Annexure P-1) by filing an application under Section 33-C(2) on the ground that since the respondent-Workman was directed to be reinstated in service within a period of one month of the award, which was not done by the petitioner-Department despite the fact that he had filed an application for reinstatement in service on 09.04.2010 hence, he was entitled for the wages from the date he had submitted the joining application on 09.04.2010 till the actual joining on

08.01.2014, which benefit of wages has been allowed by the Labour Court while passing the impugned award dated 11.08.2016 (Annexure P-7).

7. Learned counsel or the petitioner argues that the grant of wages to the respondent-Workman for the said period will amount to the grant of backwages which benefit has already been denied by the Labour Court in its order dated 24.11.2009 (Annexure P-1) hence, without appreciating the said fact, the benefit of backwages has been allowed in favour of the respondent-Workman, which is incorrect on part of the Labour Court.

8. The further argument of the learned counsel for the petitioner is that once, the respondent-Workman only joined in the service on 08.01.2014, he was only entitled for the wages from the said date of joining and not from a date prior to joining as nothing has come on record to show that any such effort was made by the respondent-Workman so as to join the duties in pursuance to the award dated 24.11.2009.

9. Upon notice of motion, the respondent-Workman has appeared and supports the impugned award and submits that once the joining application was given by the respondent-Workman on 09.04.2010, it was incumbent upon the department to allow him to join in the service especially when there was no interim order staying the order dated 24.11.2009 (Annexure P-1) in the writ petitions filed by the petitioner challenging the award dated 24.11.2009 (Annexure P-1) qua the benefit of reinstatement in service awarded to the respondent-Workman by the Labour Court.

10. Learned counsel for the respondent-Workman submits that till the time the petitioner-Department availed the remedy of writ petition against order dated 24.11.2009 (Annexure P-1) and thereafter of letters patent appeal, the respondent-Workman was not allowed to join in the

service and it was only when the LPA was dismissed, the award dated 24.11.2009 (Annexure P-1) was accepted by the petitioner-Department and only thereafter, the respondent-Workman was allowed to join in the service on 08.01.2014 hence, prohibiting the respondent-Workman from performing his duties was only attributable to the petitioner hence, the respondent-Workman is entitled for the benefit of wages in pursuance to the award dated 24.11.2009 (Annexure P-1) by which, a specific direction was given to the petitioner to reinstate the respondent-Workman within a period of one month from the award hence, the writ petition may kindly be dismissed.

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

12. The first argument which has been raised by the learned counsel for the petitioner is that as per the award dated 24.11.2009 (Annexure P-1), the benefit of backwages was not extended to the respondent-Workman hence, even under Section 33-C(2), the benefit of backwages awarded vide order dated 11.08.2016 (Annexure P-7) could not have been granted to respondent-Workman hence, the award dated 11.08.2016 (Annexure P-7) is contrary to the award dated 24.11.2009 (Annexure P-1).

13. Qua the said argument, it may be noticed that the denial of benefit of the backwages was upto the date the award dated 24.11.2009 (Annexure P-1) was passed. Once, a specific direction was given by the Labour Court to allow the respondent-Workman to join in the service within a period of one month and for the said purpose, the respondent-Workman had already submitted joining application on 09.04.2010, the said claim of the respondent-Workman becomes one for the wages and not for the backwages. The claim for backwages was raised only for the period starting

from the date of termination i.e. 22.10.1992 till 24.11.2009 which was not accepted by the Labour Court while passing award dated 24.11.2009 (Annexure P-1).

14. The claim of the respondent-Workman qua the wages is not for the said period but is only for the period starting from 09.04.2010, when he submitted his application to allow him to join in the service in pursuance to the award dated 24.11.2009 (Annexure P-1). The said claim is for the wages and not for the backwages, which has been misinterpreted by the petitioner.

15. Further, once a specific direction had been given by the Labour Court vide its order dated 24.11.2009 (Annexure P-1) to allow the respondent-Workman to join in the service within a period of one month of the passing of the said award and the said award was never stayed by the High Court either during the continuation of the writ petition or during the appeal thus, it was incumbent upon the petitioner to comply with the award dated 24.11.2009 (Annexure P-1) passed by the competent court of law especially when the respondent-Workman had submitted an application to join in the service. The petitioner-Department violated the said direction of the Labour Court and now are denying the benefit of wages to the respondent-Workman. Once, it has already come on record that an application/joining report was submitted by the respondent-Workman on 09.04.2010 and that, there was no interim order qua the said direction of the Labour Court given vide the award dated 24.11.2009 (Annexure P-1), the petitioner-Department was under an obligation to grant the relief of reinstatement in service to the respondent-Workman. Refusal of the same by the petitioner-Department cannot deny the respondent-Workman, the wages, he is entitled to, for the period he was not allowed to join in service despite

award of Labour Court dated 24.11.2009 (Annexure P-1). The Labour Court while passing the impugned order dated 11.08.2016 (Annexure P-7) has rightly implemented the award dated 24.11.2009 (Annexure P-1) in the true sense so as to grant the actual relief the respondent-Workman was entitled for i.e. the wages from the date the respondent-Workman gave the joining report i.e. 09.04.2010 till the actual joining on 08.01.2014. The same cannot be treated as arbitrary or illegal or contrary to the award dated 24.11.2009 (Annexure P-1).

16. Keeping in view the above as, the impugned award dated 11.08.2016 (Annexure P-7) passed by the Labour Court is not perverse either to the facts or the evidence on record hence, no interference is called for by this Court in the facts and circumstances of the present case.

17. Present petition stands dismissed.

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

30-04-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO