



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

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CWP-22643-2016

Date of Decision: 19.08.2025

OM PARKASH

-PETITIONER

V/S

**PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, PANIPAT AND OTHERS**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

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

Mr. Sumit Jain, Advocate,
for respondent no.2-management

KULDEEP TIWARI, J.

1. The reference, which was answered in favour of respondent no.2, vide Award dated 18.07.2016 (Annexure P-4), passed by the Industrial Tribunal-cum-Labour Court, District Panipat (respondent no.1), has been put to challenge by the petitioner through the instant petition cast under Article 226/227 of the Constitution of India, wherethrough, relief of reinstatement with continuity of service and back wages have been denied to him, and compensation of only Rs.75,000/- has been awarded to him.
2. On dated 04.12.2019, the co-ordinate bench passed the hereinafter extracted order:-

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“Learned counsel for the petitioner contends that vide award dated 18.07.2016 (Annexure P-4), Labour Court had held workman to be entitled for compensation of Rs.75,000/- with interest. Learned counsel for the petitioner further contends that he has instructions to make a statement that in case, the respondent-Corporation considers granting reinstatement and if he can secure his job, he is ready to forego the compensation and the interest so awarded.

Let learned counsel for the respondent No.2 seek instructions.

Adjourned to 16.04.2020.”

3. Thereafter, vide order dated 31.10.2023, following order was passed:-

“At the outset, learned counsel for petitioner, on instructions from Shri Om Parkash-petitioner, who is present in Court today itself, as well as learned counsel for respondent No. 2 submit that the matter has been amicably settled between the parties for a lump sum amount of Rs.3 lacs with regard to all claims of petitioner towards respondent No. 2. Learned counsel for respondent No. 2 further submits that he shall bring a demand draft of Rs. 3 lacs in the name of petitioner (Om Parkash) on the next date of hearing.

In view of above, list the matter for further consideration on 20.11.2023.”

4. Subsequently, an application (CM-19439-CWP-2023) was filed by the respondent no.2-management to submit that the statement, as extracted above, made on behalf of respondent no.2 regarding amicable settlement for a lump sum amount of Rs.3 lakhs, was, in fact, given due to some miscommunication, and sought modification of the order (*supra*), however, the same was dismissed as having been withdrawn vide order dated 20.11.2023. He further submitted that the matter may be heard on merits.

5. Before this Court proceed to decide the instant *lis* on merits, lets have a glimpse at the facts of instant case, which have been culled

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out from the impugned Award, are reproduced hereinafter:-

“2. The afore-named workman has raised an Industrial Dispute, through his Demand Notice dated 2.7.04, alleging therein that he was employed with the respondent as Beldar in the month of October, 95. That the workman was paid fixed salary of Rs. 1800/- per month. Initially, the workman was deputed on his duty at Ramana, Sambha, Taraori Mandi, Sagga, Sonkra and Sultanpur for doing work of repair of roads. The workman worked on this post upto the month of August 1996 and thereafter, he was deputed to work as Store- Chowkidar. That in the month of November 1997, the workman was posted as store chowkidar in Taraori store. The wages of the workman was used to paid at the rate which was subsequently raised to Rs.2500/- per month. The workman remained posted at Taraori store and worked there as store chowkidar upto the year 2002 continuously. The work of the workman was receiving materials against indents approved by the SDO in charge. The workman was also assigned the work to issue material from the store against the indents or slip issued by the JE/SDO/various contractors. The wages of the workman was directly paid by the management through SDO. Some time the workman was assigned the work of general duty as per requirement of the work. That in the month of Jan. 2003, the workman, was transferred from Taraori store to karna and the workman was assigned the work on the post of peon for some period and some times he was directed to work in the fields in the area of Gharaunda, Bastara Mandi etc. Thereafter, the workman was posted in the office of Sh. S.S. Arora, SDO, Karnal and the workman worked in this office for the last more than one year continuously without any break in service. That the workman have continuously worked since October 1995 without any break in service. There were instructions of the Govt. of Haryana vide letter dated 7.3.96 and 18.3.96 vide which it was decided that daily wages workman or casual staff and work charge staff who have continuously worked for more than three years and there is no break in service are entitled to regularization in service. On the basis of this policy the workman was also entitled to be regularized in the service in the month of October 1998 but the management did not consider the name of the workman for this regularization. That the workman got issued a legal notice to the management under Section 80 CPC through Bhagwan Dass, Advt. on 22.5.04 with a request to regularize the services of the workman. The management annoyed with the workman after receipt of this notice and started threatening the workman to remove from the service without giving any notice. On 8.6.14, the services of the workman were terminated by the management without giving any notice or pay In lieu of notice and retrenchment compensation. That the management has also violated the provisions of Sections 25-F, 25-G and 25-H of the Act. He claimed reinstatement with continuity

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of service and full back wages.”

6. It is pertinent to note here that in order to challenge his termination, the petitioner had filed demand notice/claim on 02.07.2004 before the Labour Court, Panipat. The latter concerned dismissed the claim of the petitioner-workman by passing an Award dated 13.04.2011. Aggrieved against the said Award, the petitioner-workman filed a CWP No.17304 of 2011 before this Court. The said writ petition was allowed vide order 14.01.2016 (Annexure P-3), and Award dated 13.04.2011, was set aside, and the matter was remanded, with a direction to the Labour Court/Tribunal concerned, to dispose of the reference afresh, in accordance with law. Thereupon, the Labour Court, heard the matter afresh, and passed the impugned Award dated 18.07.2016 (Annexure P-4), wherethrough, instead of reinstatement of services of the petitioner-workman with full back wages with continuity of service, the workman was held entitled for a lum-sum compensation of Rs.75,000/- to be paid by the management.

Hence, the instant writ petition.

7. Learned counsel for the petitioner submits that the Tribunal has not given any justifiable reasoning while denying the relief of reinstatement with all consequential benefits to the petitioner, despite holding that his services were illegally terminated. He further submits that it is a settled law that once termination is found to be illegal, the normal relief of reinstatement in service, with continuity of service and

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all other consequential benefits ought to be granted.

8. He further submits that the respondent-management had admitted the claim of the petitioner-workman before the Tribunal. Moreso, one of its witnesses, who appeared as MW-1, has also supported the case of the petitioner-workman.

9. He, finally, while relying upon various judgements rendered by the Hon'ble Supreme Court, submits that once a workman has completed 240 days of service in a preceding calender year, then it is mandatory to comply with the provisions of Section 25-F of the Industrial Disputes Act, 1947, which has not been considered by the Tribunal while passing the impugned Award. And, it is a case of the present petitioner also that he had completed 240 days in a calender year.

10. On the other hand, learned counsel for respondent no. 2-management has opposed the relief sought by the petitioner-workman. He submitted that the impugned Award has been passed in accordance with law and does not suffer from any illegality, infirmity, or perversity warranting interference by this Court. He also contends that respondent no.2-management has duly considered all relevant documents, evidence, and submissions placed on record before arriving at its conclusion. He further submitted that the termination of the petitioner-workman was carried out strictly in accordance with the applicable legal provisions and service rules. Respondent no. 2-management ensured compliance with the principles of natural justice by affording a fair and effective

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opportunity of hearing to the the petitioner-workman before taking the decision to terminate his services. Finally, he prays for dismissal of the instant petition, being devoid of any merit.

11. This Court has heard the rival submissions, as made by learned counsel for the parties, and has perused the entire record, including impugned order meticulously.

12. There is no doubt with the legal preposition that once act of termination from service is found to be illegal the workman has right for reinstatement with full back wages, however, this cannot be applied mechanically in all cases, specifically, if the termination is found to be illegal on account of procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act. In that eventuality, the compensation is the apt Award which can be passed in favour of the workman.

13. This Court finds vigor regarding this observation from the judgment rendered by the Hon'ble Supreme Court in '**BSNL vs. Bhurumal**', (2014) 7 SCC 177. The relevant part thereof is extracted hereinafter:-

“33. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or mala fide and/or by way of victimisation, unfair labour practice, etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view that in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will

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meet the ends of justice.

34. The reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily-wage basis and even after he is reinstated, he has no right to seek regularisation [see *State of Karnataka v. Umadevi* (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753]]. Thus when he cannot claim regularisation and he has no right to continue even as a daily-wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

35. We would, however, like to add a caveat here. There may be cases where termination of a daily-wage worker is found to be illegal on the ground that it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularised under some policy but the workman concerned terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.”

14. It was further followed by the Hon'ble Supreme Court in '**Ranbir Singh vs. Executive Eng.P.W.D.**' (Civil Appeal No.4483 of 2010), vide judgement dated 02.09.2021, with the following observations, which is extracted hereinafter:-

6. In the light of the state of the law, which we take note of, we notice certain facts which are not in dispute. This is a case where it is found that, though the appellant had worked for 240 days, appellant's service was terminated, violating the mandatory provisions of Section 25F of the Act. The authority involved in this case, apparently, is a public authority. At the same

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time, it is common case that the appellant was a daily wager and the appellant was not a permanent employee. It is relevant to note that, in the award answering Issue No.1, which was, whether the termination of the appellant's service was justified and in order, and if not, what was the amount of back wages he was entitled to, it was found, inter alia, that the appellant could not adduce convincing evidence to establish retention of junior workers. There is no finding of unfair trade practice, as such. In such circumstances, we think that the principle, which is enunciated by this Court, in the decision, which is referred to in Raj Kumar (supra), which we have referred to, would be more appropriate to follow. In other words, we find that reinstatement cannot be automatic, and the transgression of Section 25F being established, suitable compensation would be the appropriate remedy.

7. In such circumstance, noticing that, though the appellant was reinstated after the award of the Labour Court in 2006, the appellant has not been working since 2009 following the impugned order, and also taking note of the fact that the appellant was, in all likelihood, employed otherwise, also the interest of justice would be best subserved with modifying the impugned order and directing that in place of Rs. 25000/- (Rupees Twenty Five Thousand), as lumpsum compensation, appellant be paid Rs.3.25 lakhs (Rupees Three Lakhs and Twenty Five Thousand), as compensation, taking into consideration also the fact that the appellant had already been paid Rs. 25000/- (Rupees Twenty Five Thousand) as compensation.”

15. In the instant case, the petitioner's services were terminated way back on 08.06.2004 (wrongly written as 8.6.14 in facts as extracted above). Since then, the petitioner has been relentlessly pursuing his legal remedies against the action of the respondent no.2-management. The petitioner had earlier approached this Court by way of a writ petition (CWP-17304-2011), wherein co-ordinate bench, after hearing the matter, deemed it appropriate to remand the case to the competent Tribunal for reconsideration vide order dated 14.01.2016. In compliance with the directions (*supra*), the Tribunal reconsidered the matter and passed the impugned Award, wherethrough the latter concerned, declined the petitioner's prayer for reinstatement into service and awarded a lump-sum

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compensation of Rs.75,000/- in lieu thereof.

16. This Court also finds that in the instant case, the order reinstatement in service cannot be passed, as about more than 21 years have passed since the date of termination. Now the issue arises for consideration, as to what would be the apt compensation, payable to the petitioner-workman. Upon a perusal of the impugned Award and the circumstances surrounding the petitioner's termination, this Court is of the considered opinion that the compensation so awarded is inadequate and does not adequately address the hardships, suffered by the petitioner over the years of prolonged litigation and unemployment.

17. The co-ordinate bench (Harsimran Singh Sethi, J.) of this Court, in '**State of Haryana vs. Surjeet and another**' (CWP-11057-2001, decided on 30.07.2025), has thoroughly examined issue in question, and held that the petitioner-workman can be paid compensation to the tune of Rs.50,000/-, for each completed year. The relevant part thereof, is extracted hereinafter:-

“6. As per the settled principle of law settled by the Division Bench of this Court in LPA No.1203-2021 titled as Sukhbir Singh vs. State of Haryana and others decided on 01.03.2023 , an employee is entitled for compensation in lieu of benefit of reinstatement in service. Relevant paragraphs of the said judgment are as under:-

6. Resultantly, once the workman had completed 240 days and apparently had worked for a period spanning more than 5 ½ years, we are of the considered opinion that dispensing of his service before his contractual period came to an end would entitle him for the statutory protection which would be evident from the award of the Labour Court. However, keeping in view the fact that at this point of time, it would be justified to put him back in service since a period of almost 25 years has gone by and

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therefore, it would be just and appropriate to award compensation to the tune of Rs.2,50,000/- on an average of Rs.50,000/- per year, keeping in view the fact that the State had taken his service for more than 5 years with the same office in different districts. 7. The Apex Court in Haryana Urban Development Authority Vs. Om Pal, (2007) 5 SCC 742 granted Rs.25,000/- for the service of one year whereas in Uttaranchal Forest Development Corporation Vs. M.C.Joshi, (2007) 9 SCC 353, for a period of 2 years, a sum of Rs.75,000/- was granted. Similarly, in Asst. Engineer, Rajasthan Development Corporation & another Vs. Gitam Singh, 2013 (1) SCR 679, the said view was followed while noticing that the service was of 8 months and thus, compensation of Rs.50,000/- was granted. Similarly, in Management, Hindustan Machine Tools Ltd. Vs. Ghanshyam Sharma, 2018 (18) SCC 80, for a period of one year, compensation of Rs.50,000/- had been granted. In K.V.Anil Mithra & another Vs. Sree Sankaracharya University of Sanskrit & another, 2021 (4) SCT 415, for a period of little over 4 years, amount awarded was Rs.2,50,000/- in lieu of the reinstatement and backwages of 50% which was granted and accordingly, modified.”

7. A bare perusal of the above reproduction would show that for each completed year, instead of reinstatement, a workman can be paid compensation to the tune of Rs.50,000/ for each completed year. Keeping in view the fact that in the present case, respondent No.1-workman had worked for a period of more than 06 years, he becomes entitled for sum of Rs.3,00,000/- on the said account.”

18. Taking into consideration the prolonged duration for which the petitioner has been engaged in a legal tussle, spanning over more than two decades as well as the psychological, financial, and professional setbacks endured, this Court finds it just and appropriate to enhance the compensation of Rs.75,000/- as awarded by the Tribunal. Consequently, in the totality of facts and circumstances of the case and the years of work, this Court deems it appropriate to grant a compensation of Rs.3,00,000/- (Rupees Three Lakhs only) to the petitioner, which, would serve the ends of justice and equity in the present matter.

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19. The aforesaid compensation shall be paid to the petitioner by respondent no.2-management within a period of 03 months from the receipt of a certified copy of this order. In the event of any default in payment of the compensation, respondent no.2-management shall be liable to pay interest at the rate of 9% per annum, to be calculated from the date of passing of this order, untill actual realisation.

20. **Disposed of** with the above directions.

August 19, 2025
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No