



CWP-22675-2016 (O&M) & -1-
CWP-22873-2016 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

245+246

CWP-22675-2016 (O&M)
Date of Decision :20.02.2025

Team Lease Services Private Limited

...Petitioner

Versus

Rahul Dev & others

...Respondents

CWP-22873-2016 (O&M)

Team Lease Services Private Limited

...Petitioner

Versus

Abishek Kumar & others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Raje Ram Kaushik, Advocate for the petitioners
in both the petitions.

Mr. Ashok Tyagi, Advocate for respondent No.1
in both the petitions.

Ms. Divya Sharma, Advocate with Ms. Sheetal Rana, Advocate
for respondent No.2 in both the petitions.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petitions, the challenge is to the awards dated
06.07.2016 & 01.07.2016 (Annexure P/1 in both the petitions) passed by the
Industrial Tribunal-cum- Labour Court-I, Gurgaon.

2. For the sake of convenience, since both the petitions involve
similar facts on similar points of law, facts are drawn from CWP-22675-



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2016.

3. The said award is challenged on the ground that the respondents-Workman had abandoned his job and as he had abandoned his job, his services were terminated and as the respondents-Workmen had not performed his duties starting from 08.12.2010, it cannot be said that provision of Industrial Disputes Act, 1947 (in short, 1947 Act') was violated, which fact has been ignored by the Labour Court while passing the impugned award Annexure P/1.

2. Learned counsel for the respondent-Workman submits that the respondent-Workman had worked for a period of 4 to 5 years with the petitioner and the argument that he had abandoned the job is incorrect and further that in this respect the Labour Court has already introspected and recorded a finding that nothing has come on record to show that there was abandonment of job by the respondent-Workman concerned hence, in the facts and circumstances of the present case, the award passed by the Labour Court is perfectly valid and legal.

3. I have heard learned counsel for the parties and have gone through the record with their able assistance.

4. From the facts which have been noticed hereinbefore, the respondent-Workman had as per the provisions of 1947 Act, worked for more than 240 days in 12 months preceding to his alleged termination in December, 2010. Nothing has come on record to support the assertion of the learned counsel for the petitioner that the respondent-Workman had abandoned his job and in case, as per the petitioner, the respondent-

Workman had abandoned the job, no such letters or notice issued to the



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respondent-Workman to join the duty back have been brought on record.

5. Learned counsel for the petitioner has not been able to rebut the findings which have been recorded by the Labour Court qua the termination of service of the respondent-Workman being violative of Section 25 of the 1947 Act.

6. Keeping in view the findings which have gone unrebutted as no perversity in the order passed by the Labour Court has been pointed out by the learned counsel for the petitioner, the findings recorded by the Labour Court that the service of the respondent-Workman was terminated in violation of the provisions of 1947 Act needs no interference at hands of this Court.

7. Learned counsel for the petitioner further submits that even if, the service of the respondents-Workmen was terminated, grant of benefit of reinstatement with 40% back wages as was awarded by Tribunal vide its order dated 06.07.2016 needs to be reconsidered as the respondent-Workman was working with the respondent No.2 and the petitioner's role was only supplying the work force to the various institutions including the respondent No.2, hence, as of now there exists no work with the petitioner, which can be performed by the respondents-Workmen in case, the benefit of reinstatement should not have been ordered and only the benefit of compensation could have been given to the respondents-Workmen.

8. Learned counsel for the respondents-Workmen has not been able to dispute that the petitioner was only working as a Contractor whose role was supplying work force to the various institutions.

9. That being the conceded fact, the grant of benefit of



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reinstatement in service along with back wages by the Tribunal is not valid keeping in view the facts and circumstances of the present cases as there exists no work with the petitioner to be performed by the respondent-Workman.

10. As per the settled principle of law settled by the Division Bench of this Court after relying upon the various judgments of the Hon'ble Supreme Court of India in LPA-1203-2021 titled as Sukhbir Singh vs. State of Haryana and another, decided on 01.03.2023, a compensation should be assessed keeping in view the number of years an employee had worked and a sum of Rs.50,000/- should be paid as compensation for each completed year. 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 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



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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.”

11. Keeping in view the said fact, impugned award passed by the Labour Court qua the grant of benefit of reinstatement in service along with back wages is modified. The respondent-Workman namely, Abishek Kumar, respondent-Workman in CWP-22873-2016, who has concededly worked for a period of four years starting from November, 2006 till December, 2010 is held entitled for a sum of Rs.2 lacs as compensation as a full and final settlement. Similarly, the respondent-Workman namely, Rahul Dev, respondent-Workman in CWP-22675-2016 who worked for a period of 05 years till his services were dispensed with, is held entitled for a sum of Rs.2.5 lacs as compensation as full and final settlement.

12. Let the compensation awarded under the present order be paid to the respondents-Workmen within a period of 08 weeks from the date of receipt of copy of this order. In case, the order passed is not complied with, the respondents-Workmen will also be entitled for the benefit of interest @ 6% per annum on the said amount starting from the date of the passing of the impugned award till the said compensation is paid to them.

13. Present petitions are disposed of in above terms.



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14. Civil miscellaneous application pending, if any, is also disposed of.

15. A photocopy of this order be placed on the file connected cases.

February 20, 2025

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No