



CWP-24594-2014 & connected case -1-

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

242 (02 cases)

CWP-24594-2014

Date of Decision :05.03.2025

Jasbir Singh

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal, Bathinda
and another**

...Respondents

CWP-25777-2014

Balwinder Singh

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal, Bathinda
and another**

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

**Present: Mr. Arihant Goyal, Advocate for the petitioner(s)
(in both the writ petitions).**

Mr. Y.P. Singla, Advocate for respondent No.2.

*** * ***

Harsimran Singh Sethi, J. (Oral)

1. By this common order, above mentioned two writ petitions, the details of which are mentioned at the heading are being decided as both the petitions involve the same question of law on similar facts.

For the purpose of this order, facts are being taking from **CWP-**



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24594-2014 titled as Jasbir Singh vs. Pressing Officer, Industrial Tribunal, Bathinda.

3. In the present petition, the grievance being raised by the petitioner-Workman is that while the petitioner-Workman was working with the respondent-Corporation from the year 1985 as a Sales Assistant-cum-Store Keeper, his services were terminated from 11.07.1986 by respondent No.2 and by the said date, the petitioner-Workman had already worked for more than 240 days and while terminating the services of the petitioner-Workman, Section 25-F of the Industrial Disputes Act, 1947 (in short, '1947 Act') was not complied with hence, the order dated 11.07.1986 terminating the services of the petitioner-Workman by respondent No.2 was challenged before the Labour Court.

2. Learned counsel for the petitioner-Workman submits that vide award dated 04.09.1990 (Annexure P/1) by the Labour Court, the termination order dated 11.09.1986 was held to be bad and the petitioner-Workman was directed to be reinstated in service along with full back wages.

3. Learned counsel for the petitioner-Workman submits that though, the petitioner-Workman was reinstated and joined service on 09.04.1991 in compliance of the award dated 04.09.1990 (Annexure P/1) by Labour Court but for the period the petitioner-Workman remained out of service i.e. from July, 1986 till 1991, the benefit of increment was not granted, which is causing prejudice to the petitioner-Workman. Learned counsel for the petitioner-Workman submits that as the award dated 04.09.1990 was not complied with in letter and spirit, further the petitioner-

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Workman filed an application dated 19.05.2008 (Annexure P/7) under Section 33-C(2) of the 1947 Act to the respondent No.1 for the implementation of the award dated 04.09.1990 (Annexure P/1) passed by the Labour Court. Learned counsel for the petitioner-Workman further submits that the aforementioned application was dismissed by the Industrial Tribunal only on the ground that after passing of the award dated 04.09.1990 (Annexure P/1), the respondent-Corporation passed an order dated 06.01.2000 (Annexure P/6) denying the benefit of increment to the petitioner-workman, which order was not challenged by the petitioner-workman. Learned counsel for the petitioner-Workman argues that once, a benefit for reinstatement has been granted to the petitioner-workman under the award of the Labour Court which has attained finality, any order passed contrary to the said award, will not take away the right of the petitioner-workman to claim the benefit of increment under the award and hence, the Industrial Tribunal while adjudicating the application under Section 33-C(2) of the 1947 Act should have only decided the entitlement under the award dated 04.09.1990 (Annexure P/1) rather than basing the award dated 20.01.2014 (Annexure P/8) to deny the benefit only on the ground that order dated 06.01.2000 (Annexure P/6) passed by the respondent No.2 was not challenged by the petitioner-Workman.

4. Learned counsel for the respondent No.2 submits that once keeping in view the fact that award dated 04.09.1990 (Annexure P/1) was implemented and the petitioner-Workman was reinstated in service and he was denied the benefit of increment by passing a specific order dated 06.01.2000 (Annexure P/6), till the said order is challenged, the benefit

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could not have been granted, which fact has rightly been appreciated by the Industrial Tribunal while passing the impugned award dated 20.01.2014 (Annexure P/8).

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

6. The passing of the award dated 04.09.1990 (Annexure P/1) by Labour Court is a conceded fact between the parties. It is also a conceded fact that by the said award, the petitioner-Workman was reinstatement in service with continuity and full back wages. That being so, the petitioner-Workman was also entitled for the grant of benefit of increment for the period he remained out of service i.e. 11.07.1986 to 09.04.1991 keeping in view the fact that benefit of increment was granted prospectively after the reinstatement of the petitioner-Workman in the year 1991.

7. The view taken by the Industrial Tribunal that the respondent No.2 had passed an order dated 06.01.2000 (Annexure P/6) declining the benefit of increment to the petitioner-workman qua the period he remained out of service and in the absence of any challenge to the same, the petitioner-Workman cannot get benefit of increment, cannot be accepted. Once, an order has been passed by the competent Court of law i.e. by respondent No.2 which has attained finality, the consequential benefit admissible under the award dated 04.09.1990 (Annexure P/1) cannot be denied by passing an order and the application filed under Section 33-C(2) of the 1947 Act is only for the implementation of the aforementioned award in the manner required hence, the Industrial Tribunal should have appreciated the said fact rather than dismissing the claim of the petitioner-



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Workman for the grant of benefit of increment which was inherent keeping in view the award passed by the Labour Court dated 04.09.1990 (Annexure P/1).

8. Keeping in view the above facts, award passed by the Labour Court dated 20.01.2014 (Annexure P/8) is set aside. The petitioner-Workman is held entitled for the grant of benefit of increment for the period he remained out of service i.e. from 11.07.1986 to 09.04.1991. The respondent-Corporation is directed to recompute the salary of the petitioner-Workman upon reinstatement and grant him the benefit of arrears as admissible after granting him the benefit of increment.

9. Let the present order be complied with within a period of 04 weeks from the date of receipt of copy of this order.

10. Both the petitions are allowed in above terms.

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

12. A photocopy of this order be placed on the file of connected case.

March 05, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No