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

**CM-6964-CWP-2025 in/and
CWP-20635-2017 (O&M)
Date of Decision : 08-05-2025**

**LUXMI NARAIN AYURVEDIC COLLEGE, DURGIANA MANDIR,
AMRITSAR THROUGH ITS PRESIDENT**

.....Petitioner(s)

VERSUS

**THE PRESIDING OFFICER INDUSTRIAL TRIBUNAL, AMRITSAR
AND ANR.**

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vivek Singla, Advocate for
Mr. Vivek Salathia, Advocate for the petitioner.

Mr. Bhupinder Singh, Advocate for
Respondent Nos.2 to 5.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-6964-CWP-2025

This is an application for impleading the legal heirs of respondent No.2.

Keeping in view the contents mentioned in the application, the same is allowed. The LRs of respondent No.2 are impleaded as party to the present petition only for the purpose of pursuing the present litigation.

Registry is directed to make necessary changes in the memo of parties by impleading the LRs of the respondent No.2 as party to the present petition.

CWP-20635-2017 (O&M)

1. In the present petition, the challenge is to the order dated 07.04 2017 (AnnexureP-1) by which, it has been held that the services of the respondent-Workmen have been terminated in violation of the provisions of the Industrial Disputes Act, 1947 (“hereinafter referred as “1947 Act”).

2. Learned counsel for the petitioner submits that the services of the respondent No.2-Workman was terminated on 16.09.2013, which action of the petitioner herein, was made the subject matter of reference before the Labour Court. The Labour Court held that the service of the respondent No.2-Workman has been terminated wrongly without following the provisions of the 1947 Act and the benefit of reinstatement in service along with continuity in service and 50% of the backwages have been granted along with interest from the date, the reference was received i.e. from 05.02.2015 onwards.

2. Learned counsel for the petitioner argues that the respondent-Workman was asked to perform the duties against the post of Driver against one Amarpal Singh s/o Niranjana Singh who was working since 2009. In the year 2012, Amarpal Singh went on leave and the respondent No.2-Workman was asked to perform the duties in place of Amarpal Singh. Thereafter, Amarpal Singh joined duties after exhausting his leave and therefore, the services of the respondent No.2-Workman was terminated hence, it is not a case of the termination of services of respondent No.2-Workman as, the respondent No.2-Workman was working against the post of Amarpal Singh, who had joined back and therefore, there was no other post to grant benefit of reinstatement to the respondent No.2-Workman, which fact has been ignored by the Labour Court while passing the impugned order.

3. Learned counsel for the respondent-Workman submits that once a categorical finding has been recorded that before terminating the services, the respondent No.2-Workman had completed 240 days of service and the employment of the respondent No.2-Workman with the petitioner is not disputed, the order passed by the Tribunal dated 07.04.2017 holding the termination illegal being contrary to that the provisions of the 1947 Act, is perfectly valid and the present writ petition may kindly be dismissed.

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

5. Once, the employment of the respondent No.2-Workman is not being disputed and the only assertion raised before this Court is that the respondent No.2-Workman was appointed against the post of one Amarpal Singh after he went on leave and after Amarpal Singh joined, the respondent No.2-Workman was relieved. Even if the same is assumed to be correct once, the respondent No.2-Workman had worked for 240 days in the preceeding 12 months prior to his termination,, the employer-petitioner is under obligation to comply with Section 25F of the Industrial Disputes Act, 1947, which has not been done. Merely that the respondent No.2-Workman was working against the post held by another employee who was on leave, will not come to the rescue of the employer once, the respondent No.2-Workman has completed 240 days in service required to be followed to comply with Section 25F of the 1947 Act as the same amounts to retrenchment.

6. Now, the question which arises is whether, the relief of reinstatement along with continuity in service and 50% of the backwages is

to be granted or, the respondent No.2-Workman is only entitled for compensation.

7. Concededly, the respondent No.2-Workman was working against the post of one Amarpal Singh, who had gone on leave. Upon his joining there was no post against which, the respondent No.2-Workman could have worked. Once, it has been brought on record that the respondent No.2-Workman had performed the duties only for a particular period, it would have been apt to grant compensation to the respondent No.2-Workman for the said period.

8. As per the judgment of the Division Bench in LPA No.1203 of 2021 titled "*Sukhbir Singh Vs. State of Haryana and anr.*", decided on 01.03.2023, the respondent-Workman can be granted compensation @ Rs.50,000/- for each year he/she has performed the duties.

9. In the present case, the respondent No.2-Workman is held entitled for compensation of Rs.50,000/- instead of reinstatement in service with 50% of the backwages and the award dated 07.04.2017 (Annexure P-1) is modified accordingly.

10. Present petition is disposed of in above terms.

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

08-05-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable:NO