

CM-3299-CWP-2025 in/&
CWP-8157-2012 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

CM-3299-CWP-2025 in/&
CWP-8157-2012 (O&M)
Date of Decision :06.03.2025

Rajinder Parsad

...Petitioner

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour
Court, Panipat and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jasmeet Singh Bedi, Advocate for the petitioner.

Mr. Gaurav Jindal, Addl. A.G. Haryana.

* * *

Harsimran Singh Sethi, J. (Oral)

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1. Present application has been filed for fixing some actual date of hearing in the main writ petition.
2. Notice of the application to the respondents.
3. Mr. Gaurav Jindal, Addl. A.G. Haryana accepts notice on behalf of the respondents and raises no objection for the grant of prayer as mentioned in the application.
4. Keeping in view the averments made in the application, which are duly supported by the affidavit, application is allowed. By the consent of counsel for the parties, main writ petition is taken up for hearing today itself.

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5. In the present petition, challenge is to the impugned award dated 12.12.2011 (Annexure P/1) on the ground that while setting aside the order of termination of the petitioner-Workman, the petitioner-Workman was granted benefit of only 25% back wages whereas, he should have been granted the benefit of full back wages when once, the termination of the petitioner-Workman was held to be bad.

6. Learned counsel for the petitioner-Workman submits that the services of the another workman was also terminated and while passing the award in favour of that workman on 10.01.2006, the benefit of full back wages has been granted from the date of demand notice hence, the petitioner-Workman should have also been granted the benefit of full back wages instead of 25% back wages as awarded to him.

7. Learned counsel for the respondents submits that keeping in view the evidence which had come on record, the benefit of back wages has been extended to the petitioner-Workman and after the passing of impugned award, the petitioner-Workman has also been taken back in service and the impugned award has already been complied with hence, the claim of the petitioner for full back wages may kindly be rejected.

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

9. The benefit of back wages are to be granted in case, the workman has not been gainfully employed after the termination of his/her services. The same has to be pleaded and then proved. In the present case,



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learned counsel for the petitioner-Workman has not been able to point out any evidence which had come on record to show that the petitioner-Workman was not gainfully employed and the only argument which has been raised by the petitioner-Workman is that while filing the affidavit the petitioner mentioned himself “unemployed”. The said unemployment has been mentioned while giving description of the petitioner-Workman and not in any of the paragraph of the affidavit which was filed. No averment existed in the affidavit that the petitioner-Workman was not gainfully employed in any manner.

10. Even otherwise, it may be noticed that the same award was also challenged by the State of Haryana by way of filing CWP-596 of 2013, which was decided by the Coordinate Bench of this Court vide order dated 18.09.2015 wherein, respondent No.1 was also represented and after hearing both the parties, the Court passed an order that the award passed by the Labour Court shall remain final between the parties. The said fact has not been rebutted by the learned counsel for the petitioner. Once, the award has been upheld after hearing the petitioner, who was respondent in other petition, the same cannot be modified now.

11. Keeping in view the totality of the facts and circumstances of the present case, as the petitioner-Workman has not been able to prove that he was not gainfully employed during the period when he remained out of service, the grant of 25% back wages cannot be treated as arbitrary and illegal.

12. No other argument has been raised.

13. Keeping in view the facts and circumstances recorded

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hereinbefore, present petition is dismissed.

March 06, 2025 (HARSIMRAN SINGH SETHI)
aarti JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No