



**CM-14120-CWP-2024 in/and
CWP-24199-2017 & connected cases 2**

Present: Mr. Karan Nehra, Advocate and
 Mr. Harvinder Singh, Advocate, for the petitioner(s)
 in all cases.

 Mr. Ashwani Talwar, Advocate, for applicant-respondent No.2
 in CWP-24199-2017.

 Mr. Naveen Daryal, Advocate, for respondent No.2
 in CWP-24204-2017.

 Mr. S.K. Rana, Advocate, for respondent No.2
 in CWP-20212-2017.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-14120-CWP-2024 in CWP-24199-2017

 Present application has been filed for preponing the date of
hearing of the main writ petition from 10.02.2025 to an early actual date.

 As the main writ petition is listed today, present application has
become infructuous.

 CM stands disposed of as infructuous.

CWP-24199-2017 & connected cases

1. By this common order, two writ petitions, the details of which
have been given in the heading, are being disposed of as both the petitions
involve the same question of law on similar facts.

2. In the present writ petitions, the grievance being raised by the
petitioner-Board is that the Award dated 25.04.2017 (Annexure P-1) which
has been passed by the Labour Court is without considering the fact that
respondent No.2-workman was appointed as a part time worker for a
particular period which was expired and respondent No.2-workman was
never terminated from services which has been ignored by the Labour
Court.



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3. Learned counsel for the petitioner-Board submits that there was a completion of the tenure of the service of respondent No.2-workman and therefore, the Award of the respondent No.1-Labour Court dated 25.04.2017 (Annexure P-1) that there is a violation of Section 25-F of the Industrial Disputes Act, 1947, is liable to be set aside.

4. Learned counsel for the petitioner-Board further submits that in case the appointment is for a tenure, dispensation of the service of the workman, will not attract Section 25-F of the Industrial Disputes Act, 1947 so as to grant the benefit to the workman.

5. Learned counsel for the respondent No.2-workman submits that the workman was working continuously from the year 2010 onwards and their services were only terminated in March, 2015.

6. Learned counsel for the respondent No.2-workman further submits that once there is nothing evident on record to show that the respondent No.2-workman was employed for a specific job for a specific period, which cease to exist after a particular time period, the Award passed by the Labour Court dated 25.04.2017 (Annexure P-1) is perfectly valid as the job of the Safai Sewak continued to remain in existence with the petitioner-Board and after terminating the services of the respondent No.2-workman, the petitioner-Board had appointed other persons which clearly shows that there is a violation of the provisions of the Industrial Disputes Act.

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



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8. Once, the respondent No.2-workman has worked for a substantial period and the work of the post of Safai Sewak remains in existence, coupled with the fact that nothing evident has come on record to show that the respondent No.2-workman was appointed for a specific period for doing specific job which job had already come to an end on the date when the services of the respondent No.2-workman were terminated by the petitioner-Board, it cannot be said that the Award dated 25.04.2017 (Annexure P-1) passed by the Labour Court is perverse to the facts/evidence which has come on record.

9. Once, the work of the post on which the respondent No.2-workman was working remains in existence, the argument of the learned counsel for the petitioner-Board that the respondent-workmen were appointed for a specific tenure for a specific job, which job has come to an end, cannot be accepted and has rightly been rejected by the Labour Court while passing the impugned Award dated 25.04.2017.

10. Not only this, the factum that certain other workmen for the same job were appointed after the termination of the services of the existing workmen has gone un rebutted. Once, the other workmen were being appointed to perform the same duties which the respondent-workmen were performing, there is no justification for terminating their services merely on the ground that rather than giving them extension in service, somebody else was being granted appointment.

11. It is a settled principle of law that even temporary workmen, who has been appointed, has a right to continue and cannot be replaced by another set of workmen on the same terms and conditions that too for



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providing the same services.

12. Keeping in view the above, no ground is made out for any interference by this Court as no perversity could be pointed out by the learned counsel for the petitioner-Board qua the facts/evidence which has come on record.

13. At this stage, learned counsel for the petitioner-Board submits that one of the respondent-workman has been reinstated with 50% back wages but keeping in view the fact that the back wages have been granted without ascertaining whether the respondent-workman was gainfully employed or not.

14. Learned counsel for the respondent No.2-workmen submits that with regard to the claim of payment back wages as awarded by the Labour Court upto the date of Award i.e. 25.04.2017, is waived off by the workman as he has been reinstated in service. Hence, from the date of Award till the date of reinstatement, the workman be given the benefit of back wages.

15. Keeping in view the facts and circumstances of the present case as nothing evident has come on record that the respondent-workman was not gainfully employed and no evidence has been brought on record to support the said averment, the grant of back wages in favour of the respondent-workman was not justified.

16. Keeping in view the above, the grant of back wages in favour of the respondent-workman stands modified and the respondent-workmen will not be entitled for any back wages but they will be treated in continuity of service from the date of initial appointment without there being any gap in service for all intent and purposes. The workman in case has not been



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taken back into service, be taken into service within a period of four weeks from today.

17. Accordingly, the writ petitions are disposed of.

18. Civil miscellaneous application pending if any, also stands disposed of.

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

February 10, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No