206 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-18401-2001 (O&M)
Date of decision: 09.02.2026

R.N. Mishra and others ....Petitioners

Versus

The Haryana State Industrial Development Corporation and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashwani Bharadwaj, Advocates
for the petitioner.

Ms. Parul Saini, Advocate
for Mr. Pritam Singh Saini, Advocate
for the respondent-HSIDC.

HARPREET SINGH BRAR, J. (ORAL)

CM-33195-2001

Allowed as prayed for.

CM-13232-CWP-2016

The present application has been filed under Section 151 of CPC for placing on record the policy dated 06.02.2001 as Annexure P-38 and exemption from filing the original/typed copy of the same.

In view of the averments made in the application, the same is allowed and the policy dated 06.02.2001 as Annexure P-38 is taken on record. Further, the applicant/petitioner is exempted from filing the original/typed copy of the same. Registry is directed to tag the same at an appropriate place in the file.

CWP-18401-2001

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *Mandamus*

directing the respondents to absorb the petitioners on suitable posts, according to their educational qualifications, experience and status in any board/corporation/university/department etc. of the State of Haryana. In the alternative, it is prayed that if it is concluded that the petitioners cannot be absorbed, the petitioners be paid their terminal dues and compensation.

2. Learned counsel for the petitioners submits that the petitioners were working with the Haryana Concast Limited, Hisar (hereinafter 'Company') on various posts. The Haryana Concast Limited was earlier named as Haryana Polysteel Limited which was incorporated in November, 1973 in joint sector of the respondent Haryana State Industrial Development Corporation, in collaboration with a Bhavnagar-based private company. Later on, it became a subsidiary of the respondent-HSIDC in September, 1977. The working of Haryana Polysteel Limited stood suspended since 03.07.1997. However, the manufacturing unit of the company was closed in March, 1998 in accordance with Section 25 of the Industrial Disputes Act, 1947. He further submits that even though permission was granted to retrench all 317 employees, only 309 employees were retrenched while the petitioners were retained for various activities including disbursing dues to the said retrenched employees. The petitioners continued to discharge their functions without any break in their service under the promise that they will be ultimately absorbed in another Government department/ board/ corporation etc. Ultimately, the company was wound up vide order dated 20.10.1999 passed by this Court and the petitioners were left without a job. The retrenched employees received compensation whereas the petitioners have not been paid their salary for November, 1999 or reimbursed for the company-related expenses made by them from their own pocket.

3. He further submits that the petitioners submitted a detailed representation dated 17.11.1999 for their absorption to another government-run entity, on suitable posts. It was detailed therein that Rs.3 crore was sanctioned to the company for payment of compensation to the 317 employees approved for retrenchment. An amount of Rs.2.4 crore was paid to the 309 retrenched employees and Rs.45 lakh was returned to the respondent-HSIDC while the petitioners were still in service. Vide letter (Annexure P-8), respondent No.4- the Director of Industries, Haryana recommended their adjustment in other public sector undertaking to respondent No.2. However, no step has been taken in furtherance of the same. Moreover, vide circular dated 13.07.1998 (Annexure P-20), the Government of Haryana had taken a policy decision that surplus regular employees of closed units would be absorbed in service. In spite of being covered by the said policy, no steps have been taken to absorb the petitioners in service.

4. *Per contra,* learned counsel for respondent-No.1-HSIDC submits that Rs.3 crore were released by the respondent-HSIDC and the State Government, in proportion to the equity shares held by them in Haryana Concast Limited. Admittedly, 08 employees i.e. the petitioners, were retained by the Company while 309 other employees were retrenched and compensated as the former were involved in the closure process of the Company. However, their services stood terminated once the Company was taken over by the Official Liquidator. In fact, the representation of the employees of the company for absorption was also rejected by the State Government.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, it appears that the company had obtained

permission to retrench all 317 of its employees. However, only 309 employees were retrenched and compensated while the petitioners i.e. 08 employees were retained in order to assist with, amongst other things, the mammoth task of disbursing compensation to retrenched employees. The petitioners were assured that they would be absorbed in another government undertaking, yet, till date, neither have they been retrenched and compensated nor absorbed. Since the present issue has remained pending for so long, the petitioners have attained the age of superannuation. Thus, due to efflux of time, it would not be viable to consider them for absorption. However, their entitlement to compensation ought to be considered.

6. The petitioners were regular employees who in fact continued to render their services to the company despite the fact that their retrenchment was approved. As per policy announced vide circular dated 13.07.1998(Annexure P-20), they were entitled to be absorbed into some other wing of Government service. The said circular reads as follows:

> *"Sub: Absorption of surplus staff of Autonomous bodies in Haryana State.*
>
> *Sir,*
>
> *I am directed to refer to the subject cited above and to state that the matter regarding absorption of surplus employees of various public undertakings and enterprises Government considered has for been under consideration of the some time. For the purpose, it is considered necessary to work out the requirements of the staff afresh in accordance with the present work load and to assess surplus staff. The regular staff, the i.e., the staff which has the security of job in the organization and but for retrenchment, would have continued at the job, rendered surplus, will alone be the part of surplus pool and eligible for absorption. Accordingly, you are requested to work out the details of such regular*

employees to be rendered surplus and to send the same to Chief Secretary in surplus cell (General Service II Branch) to enable the deployment of such staff elsewhere within one month. The said details should clearly indicate the names, qualifications, experience, designation pay scale and present pay of staff being rendered surplus. It is, however, the staff efforts observed that in case of employees retrenched under the due process of law, there would not be any lien of this surplus staff in the Organization. However, efforts would be made to absorb them in other organizations and Govt. Departments where suitable vacancies exist/arise and this would be done only after necessary relaxation in instructions regarding the source recruitment if permitted by the Government.

2. This may please be treated as most immediate."

7. A two-Judge Bench of the Hon'ble Supreme Court in *Pramod Jha and others vs. State of Bihar and others (2003) 4 SCC 619,* speaking through Justice R.C. Lahoti made the following observations regarding the purpose of Section 25F of the Industrial Disputes Act, 1947:

"9. We have given our anxious consideration to submission and counter-submission made before us in the light of the pleadings and undisputed documents available on record. We are of the opinion that the appeals are devoid of any merit and liable to be dismissed. The underlying object of Section 25F is two-fold. Firstly, retrenched employee must have one month's time available at his disposal to search for alternate employment, and so, either he should be given one month's notice of the proposed termination or he should be paid wages for the notice period. Secondly, the workman must be paid retrenchment compensation at the time of retrenchment, or before, so that once having been retrenched there should be no need for him to go to his employer demanding

retrenchment compensation <u>and the compensation so paid is not only a reward earned for his previous services rendered to the employer but is also a sustenance to the worker for the period which may be spent in searching for another employment.</u> Section 25F nowhere speaks of the retrenchment compensation being paid or tendered to the worker along with one month's notice; on the contrary clause (b) expressly provides for the payment of compensation being made at the time of retrenchment and by implication it would be permissible to pay the same before retrenchment. Payment of tender of compensation after the time when the retrenchment has taken effect would vitiate the retrenchment and non-compliance with the mandatory provision which has a beneficial purpose and a public policy behind would result in nullifying the retrenchment."

(emphasis added)

8. Since the retrenchment of the petitioners was approved much prior to the Court ordered winding up of the Company, the petitioners were entitled to be considered for absorption in terms of the circular (Annexure P-20). It is evident that they were retained to assist with retrenchment related work w.r.t. the other 309 employees who were to be granted their dues against a promise of subsequent absorption. Clearly, the petitioners were taken advantage of as neither were they granted compensation at par with the similarly situated retrenched employees, nor were they absorbed in service citing that the Company stood wound up vide Court order. Moreover, there is no intelligible differentia to distinguish between the petitioners and the other 309 employees of the Company, especially since retrenchment of all 317 of them was approved. The petitioners cannot be made to suffer merely because they were

chosen to be retained to manage affairs of the Company as it dealt with closure of manufacturing unit and retrenchment of employees. Such an approach is highly iniquitous and must be deprecated in the strongest terms.

9. Accordingly, the present petition is allowed. The respondents/concerned authorities are directed to pay compensation and terminal dues to the petitioners, at par with the same granted to similarly-situated 309 retrenched employees of the Company. The petitioners shall also be entitled to interest at the rate of 6% p.a., calculable from the date the identically circumstanced 309 retrenched employees were granted their terminal benefits and compensation to the date of their actual payment.

10. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

09.02.2026
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No