



CWP-3333-2001 (O&M) and
CWP-11314-2001 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(212)

Date of Decision : 11.03.2026

1. CWP-3333-2001 (O&M)

State of Punjab and others ...Petitioners

Versus

Sulakhan Lal ...Respondent

2. CWP-11314-2001 (O&M)

Sulakhan Lal ...Petitioner

Versus

Presiding Officer, Labour Court,
Gurdaspur and others ...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Sahil R. Bakshi, AAG, Punjab
for the petitioner in CWP-3333-2001 and
for the respondents in CWP-11314-2001.

Mr. Gaurav Tyagi, Advocate (Legal Aid Counsel)
for the petitioner in CWP-11314-2001 and
for respondent in CWP-3333-2001.

KULDEEP TIWARI, J. (ORAL)

1. Both the instant writ petition(s) are amenable to be decided together, as the impugned award(s) dated 05.08.1999 (Annexure P-3) in CWP-3333-2001, and (Annexure P-1) in CWP-11314-2001, respectively, as passed by the learned Labour Court, Gurdaspur, has been put to challenge, both by the workman and the Management-State of Punjab. Therefore, the same are taken up together for adjudication.



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2. Learned counsel for the petitioner/Management-State of Punjab, in CWP-3333-2001, submits that there is no evidence on record, which would establish that the workman had completed 240 days, in the preceding year, rather the engagement of the workman was purely seasonal, temporary and co-terminus with regard to the plantation work. He submits that at the best, if the case of the workman is taken to be as a gospel truth, the workman rendered his services with the petitioner/Management, only for a period of one year, i.e. from 1988 to 1989. The workman filed a demand notice only after a period of five years from the date of his alleged dismissal from the service, i.e. on 31.01.1994, and learned Tribunal concerned has finally adjudicated the reference by passing an award dated 05.08.1999, i.e. after a period of ten years from the date of termination of service of the workman, and granted the relief of reinstatement with continuity of service and full back wages from the date of the award.

3. He further submits that learned Tribunal has not considered the factual aspect with regard to the status of the workman, as he was not employed through proper channel rather he was employed as a daily wager, for a seasonal work. Had all these facts been considered in its right perspective, learned Tribunal concerned, might not have passed the order of reinstatement. At the best, it is a case of lump sum compensation, in case, the act of terminating the services of the workman, does not pass the test of legality.

4. Finally, he submits that since the workman was working as a seasonal employee with the petitioner/Management, therefore, he is squarely covered under Section 2 (oo) (bb) of the Industrial Disputes Act, 1947 (for short 'the ID Act'), and on the basis on non-renewal of seasonal plantation



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contract/work, this cannot be considered as retrenchment, requiring the petitioner/Management, to comply with the mandate as provided under Section 25 (F) of the ID Act.

5. Mr. Gaurav Tyagi, Advocate, representing the workman as a '*Legal Aid Counsel*', vociferously opposed the submissions, as made by learned counsel for the petitioner/Management, and submits that the workman was employed with a Nursery, and his work/job, cannot be treated as a seasonal work, as there is continuous perennial job in the Nursery. He further submits that the petitioner/Management, has failed to produce any evidence on record, to substantiate that the workman was employed as a seasonal employee, and that he has not completed 240 days, in the preceding year, and therefore, there is no perversity or illegality, requiring any interference of this Court, in the impugned award. Rather, the workman is entitled for full back wages, from the date of termination of his services, till the impugned award is passed.

6. Finally, he submits that in case, the act of the petitioner/Management, terminating the services of the workman, is found to be illegal, the natural corollary is that the workman is entitled for reinstatement, which has rightly been awarded to the workman, through the impugned award.

7. This Court has considered the submissions, as made by learned counsels for both the parties concerned, and has gone through the available record and the impugned award.

8. The first and foremost issue, which requires consideration is, as to whether, the workman is entitled for reinstatement and back wages amount.



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9. It is apparent from the record that the workman was appointed as daily wager without following the procedure of appointment, and therefore, in case of infraction of Section 25 (F) of the ID Act, reinstatement cannot be granted automatically.

10. In order to adjudicate the issue (*supra*), it would be apposite to refer to certain authoritative pronouncements on the subject. In '**Jagbir Singh vs. Haryana State Agriculture Marketing Board and another**', 2009 (3) SCT 790, the Hon'ble Supreme Court held that reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Further held, that compensation instead of reinstatement would meet the ends of justice. Moreover, the award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers was not found to be proper and instead compensation was awarded. The relevant observations are extracted hereunder:-

"7. It is true that earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention to the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.



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15. It would be, thus, seen that by catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily wager who does not hold a post and a permanent employee.

Therefore, the view of the High Court that the Labour Court erred in granting reinstatement and back wages in the facts and circumstances of the present case cannot be said to suffer from any legal flaw. However, in our view, the High Court erred in not awarding compensation to the appellant while upsetting the award of reinstatement and back wages. As a matter of fact, in all the judgments of this Court referred to and relied upon by the High Court while upsetting the award of reinstatement and back wages, this Court has awarded compensation.

16. While awarding compensation, the host of factors, inter-alia, manner and method of appointment, nature of employment and length of service are relevant. Of course, each case will depend upon its own facts and circumstances. In a case such as this where the total length of service rendered by the appellant was short and intermittent from September 1, 1995 to July 18, 1996 and that he was engaged as a daily wager, in our considered view, a compensation of Rs. 50,000/- to the Appellant by Respondent No.1 shall meet the ends of justice. We order accordingly. Such payment should be made within six weeks from today failing which the same will carry interest @ 9% per annum.”



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11. The ratio laid down in *Jagbir Singh's* case (*supra*) was reiterated by the Hon'ble Supreme Court in '*Incharge Officer and another vs. Shankar Shetty*', 2010 (4) SCT 261, wherein, instead of reinstatement with full back wages, compensation of ₹1,00,000/- was awarded. The relevant paragraph is reproduced hereunder:-

"5. We think that if the principles stated in Jagbir Singh and the decisions of this Court referred to therein are kept in mind, it will be found that the High Court erred in granting relief of reinstatement to the respondent. The respondent was engaged as daily wager in 1978 and his engagement continued for about 7 years intermittently upto September 6, 1985 i.e. about 25 years back. In a case such as the present one, it appears to us that relief of reinstatement cannot be justified and instead monetary compensation would meet the ends of justice. In our considered opinion, the compensation of Rs. 1,00,000/- (Rupees One lac) in lieu of reinstatement shall be appropriate, just and equitable. We order accordingly. Such payment shall be made within 6 weeks from today failing which the same shall carry interest at the rate of 9 per cent per annum."

12. The principle (*supra*) was again followed in '*Senior Superintendent Telegraph (Traffic), Bhopal v. Santosh Kumar Seal & Ors.*', AIR 2010 SC 2140, wherein the Hon'ble Supreme Court declined reinstatement and back wages to workmen engaged as daily wagers decades earlier, and awarded instead compensation of ₹40,000/- to each workman. The relevant findings are reproduced hereinafter:-

"6. In last few years it has been consistently held by this Court that relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate, (See U.P. State Brassware Corpn. Ltd. & Anr. v. Uday Narain Pandey;



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Uttaranchal Forest Development Corpn. v. M.C. Joshi; State of M.P. & Ors. v. Lalit Kumar Verma; Madhya Pradesh Administration v. Tribhuban; Sita Ram & Ors. v. Moti Lal Nehru Farmers Training Institute; Jaipur Development Authority v. Ramsahai & Anr.; Ghaziabad Development Authority & Anr. v. Ashok Kumar & Anr. And Mahboob Deepak v. Nagar Panchayat, Gajraula & Anr.).

7. *In a recent judgment authored by one of us (R.M. Lodha, J.) in the case of Jagbir Singh v. Haryana State Agriculture Marketing Board and Anr., the aforesaid decisions were noticed and it was stated :*

“7. It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

14. It would be, thus, seen that by a catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily wager who does not hold a post and a permanent employee”.

8. In view of the aforesaid legal position and the fact that the workmen were engaged as daily wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monetary compensation would subserve the ends of justice. In our considered



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view, the compensation of Rs. 40,000/- to each of the workmen (respondent nos.1 to 14) shall meet the ends of justice. We order accordingly. Such payment shall be made within 6 weeks from today failing which the same shall carry interest at the rate of 9 per cent per annum.”

13. All the judgments (*supra*) were subsequently followed by the Supreme Court in case titled **‘B.S.N.L. Vs. Bhurumal’, 2014 AIR (SCW) 528**, wherein it was held that where termination of a daily wage worker is found illegal solely due to procedural infirmities such as non compliance with Section 25-F of the I.D. Act, reinstatement with back wages is not automatic and monetary compensation may be an appropriate remedy. However, it was clarified that where termination is actuated by unfair labour practice or in violation of the principle of “last come, first go”, reinstatement should ordinarily follow unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In that case, considering the long lapse of time, short tenure of service, and diminished requirement of manpower owing to technological advancements, only compensation was granted. The paragraphs containing the apposite observations read as under:-

“23. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wage worker and where the termination is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in



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taking the view in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.

24. Reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily wage basis and even after he is reinstated, he has no right to seek regularization (See: State of Karnataka vs. Uma Devi (2006) 4 SCC 1). Thus when he cannot claim regularization and he has no right to continue even as a daily wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

25. We would, however, like to add a caveat here. There may be cases where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularized under some policy but the concerned workman terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other



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weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.

26. Applying the aforesaid principles, let us discuss the present case. We find that the respondent was working as a daily wager. Moreover, the termination took place more than 11 years ago. No doubt, as per the respondent he had worked for 15 years. However, the fact remains that no direct evidence for working 15 years has been furnished by the respondent and most of his documents are relatable to two years i.e. 2001 and 2002. Therefore, this fact becomes relevant when it comes to giving the relief. Judicial notice can also be taken of the fact that the need of lineman in the telephone department is drastically reduced after the advancement of technology. For all these reasons, we are of the view that ends of justice would be met by granting compensation in lieu of reinstatement. In Man Singh (supra) which was also a case of BSNL, this Court had granted compensation of Rs.2 Lakh to each of the workmen when they had worked for merely 240 days. Since the respondent herein worked for longer period, we are of the view that he should be paid a compensation of Rs. 3 lakhs. This compensation should be paid within 2 months failing which the respondent shall also be entitled to interest at the rate of 12% per annum from the date of this judgment. Award of the CGIT is modified to this extent. The appeal is disposed of in the above terms. The respondent shall also be entitled to the cost of Rs.15,000/-(Rupees Fifteen Thousand only) in this appeal.”



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14. The workman was a daily wager, and his services were terminated at the best, in the year 1993, and the impugned award was passed in the year 1998. Though the workman claimed that he worked from 1984 to 1993, however, there is no evidence on record, in this regard. Rather the evidence which is available on record, would establish that he worked from 1988 to 1989, only. The workman served a demand notice dated 31.01.1994, i.e. after a period of about five years, and thereupon, the award was passed on 05.08.1999, by learned Industrial Tribunal concerned, which was put to challenge by the petitioner/Management, by filing CWP-3333-2001, wherein, the award was ordered to be stayed, subject to compliance of provisions of Section 17-B of the ID Act. After a lapse of period of approximately 10 years, from the date of alleged termination of services of the workman, and the fact that the workman was working purely on work charge basis, this Court does not find that the award of reinstatement can be upheld, rather it requires modification, and this Court is of the considered opinion that the claim of the workman can be settled by paying a lump sum compensation.

15. Regarding lump sum compensation, a reliance can be placed upon the judgment of the Division Bench of this Court in ***LPA-1203-2021***, titled '***Sukhbir Singh versus State of Punjab and others***' decided on 01.03.2023, wherein, it was held that the workman is entitled for each preceding year, to the tune of Rs.50,000/-. This aspect has further been considered, and the compensation was enhanced to Rs.1,00,000/-, for each completed year, by this Court in the judgment passed in ***CWP No.11057 of 2001***, titled '***State of Haryana vs. Surjeet and another***' decided on 30.07.2025.



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16. In view of the judgment (*supra*), and considering the totality of facts and circumstances of the instant *lis*, this Court modifies the impugned award, to the extent, that the workman is held entitled for lump sum compensation of Rs.1,00,000/-, which shall be payable to him by the petitioner-Management, within a period of six weeks from the date of receipt of certified copy of this order, failing which, the workman shall further be entitled for interest @ 9% per annum.

17. Consequently, the instant writ petition stands **disposed of**.

18. Pending applications, if any, stands disposed of accordingly.

19. Photocopy of this order be placed on the connected case file, as numbered above.

(KULDEEP TIWARI)
JUDGE

March 11, 2026
Manpreet

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