

**CWP-163-2018**

-1-

107

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

CWP-163-2018Date of Decision : **12.05.2026****M/S VINAY AUTO PVT. LTD.**

.....Petitioner

VERSUS**NABH PARKASH AND ANOTHER**

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Sachin Mittal, Advocate,
for the petitioner.

Mr. G.S.Bal, Sr. Advocate assisted by
Mr. Avtar Singh, Advocate and
Mr. Gurjeet Singh, Advocate,
for respondent no.1.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, filed under Article 226/227 of the Constitution of India, a challenge is thrown to the *ex parte* Award dated 01.04.2014 (Annexure P-2), passed by the Industrial Tribunal (respondent no.2), wherethrough, the reference was answered in favour of the workman, and he was held entitled for reinstatement in service with continuity of service with full back wages (last drawn salary of Rs.6763/-), from the date of his termination, i.e. 22.06.2011 till his reinstatement with all consequential benefits. He also seeks quashing of order dated 28.01.2015 (Annexure P-4), vide which the application preferred by the petitioner-management for setting aside *ex parte* Award,



CWP-163-2018

-2-

has dismissed.

2. During the pendency of the instant petition, since respondent no.1-workman, has attained the age of superannuation, the issue of reinstatement has lost its significance, therefore, this Court refrains from adjudicating upon the relief of reinstatement, as granted vide impugned Award (*supra*).

3. The only issue that now survives for consideration is, as to whether, the services of respondent no.1-workman, were terminated illegally, without making compliance of Section 25-F of the Industrial Disputes Act, 1947 or not? If, the answer is in affirmative, then what relief, in lieu of reinstatement, would respondent no.1-workman, be entitled to?

4. From a perusal of the entire record, it transpires that respondent no.1-workman, was appointed as EDM Operator, on 05.04.2008, by the petitioner-management, and an appointment letter to that effect was also duly issued. The services of respondent no.1-workman, were terminated on 22.06.2011. Since the petitioner-management were proceeded against *ex parte*, the evidence produced by respondent no.1-workman, was found sufficient by the learned Industrial Tribunal, to establish that he had continuously worked for 240 days. Accordingly, the learned Industrial Tribunal, rightly concluded that there was a clear violation of Section 25-F of the Industrial Disputes Act, 1947. Therefore, answer to the first query is in 'affirmative'.

5. The petitioner-management has failed to satisfy this Court,



CWP-163-2018

-3-

so to warrant interference into the well reasoned Award (*supra*). Even reasons assigned in the application moved by the petitioner-management for setting aside the *ex parte* Award, are not sufficient, for this Court, to take a view different from the one taken by the learned Industrial Tribunal vide order dated 28.01.2025 (Annexure P-4).

6. The question that now arises for consideration is, what relief respondent No.1-workman is entitled to?

7. In order to adjudicate the issue (*supra*), it would be apposite to refer to certain authoritative pronouncements on the subject. In **“Jagbir Singh v. 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 wages 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.

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.”

8. The ratio laid down in **Jagbir Singh’s** case (*supra*) was reiterated by the Hon’ble Supreme Court in **“Incharge Officer & Anr. v. Shankar Shetty”, 2010 (4) SCT 261**, wherein, instead of reinstatement with full back wages, compensation of Rs. 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.”

9. 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 Rs.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; 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 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.”

10. 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 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 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.”

11. From the facts of instant case, it reflects that the respondent no.1-workman has worked for more than three years, i.e. from 05.04.2008 to 22.06.2011. Since respondent no.1-workman, has attained the age of superannuation, this Court finds that it is not a case where the relief of reinstatement can be granted, rather, the impugned Award can be modified by granting adequate lump sum compensation to respondent no.1-workman.

12. Now, in order to determine the quantum of compensation payable to the workman, it would be appropriate to refer the judgement rendered by a Co-ordinate Bench judgement of this Court, in **CWP-11057-2001, State of Haryana vs. Surjeet and another, decided on 30.07.2025**, wherein it was held the workman entitled to lump sum compensation of Rs.50,000/- for each completed year of service. The



relevant observations are as follows:-

“6. As per the settled principle of law settled by the Division Bench of this Court in LPA No.1203-2021 titled as Sukhbir Singh vs. State of Haryana and others decided on 01.03.2023, an employee is entitled for compensation in lieu of benefit of reinstatement in service. Relevant paragraphs of the said judgment are as under:-

6. Resultantly, once the workman had completed 240 days and apparently had worked for a period spanning more than 5 ½ years, we are of the considered opinion that dispensing of his service before his contractual period came to an end would entitle him for the statutory protection which would be evident from the award of the Labour Court. However, keeping in view the fact that at this point of time, it would be justified to put him back in service since a period of almost 25 years has gone by and therefore, it would be just and appropriate to award compensation to the tune of Rs.2,50,000/- on an average of Rs.50,000/- per year, keeping in view the fact that the State had taken his service for more than 5 years with the same office in different districts.

7. The Apex Court in Haryana Urban Development Authority Vs. Om Pal, (2007) 5 SCC 742 granted Rs.25,000/- for the service of one year whereas in Uttaranchal Forest Development Corporation Vs. M.C.Joshi, (2007) 9 SCC 353, for a period of 2 years, a sum of Rs.75,000/- was granted. Similarly, in Asst. Engineer, Rajasthan Development Corporation & another Vs. Gitam Singh, 2013 (1) SCR 679, the said view was followed while noticing that the service was of 8 months and thus, compensation of Rs.50,000/- was granted. Similarly, in Management, Hindustan Machine Tools Ltd. Vs. Ghanshyam Sharma, 2018 (18) SCC 80, for a period of one year, compensation of Rs.50,000/- had been granted. In K.V.Anil Mithra & another Vs. Sree Sankaracharya University of Sanskrit & another, 2021 (4) SCT 415, for a period of little over 4 years, amount awarded was Rs.2,50,000/- in lieu of the reinstatement and back wages of 50% which was granted and accordingly, modified.”

7. A bare perusal of the above reproduction would show that for each completed year, instead of reinstatement, a workman can be paid compensation to the tune of Rs.50,000/ for each completed year. Keeping in view the fact that in the present case, respondent No.1-workman had worked for a period of more than 06 years, he becomes entitled for sum of Rs.3,00,000/- on the said account.”

13. Having regard to the totality of the facts and circumstances

and considering that since respondent no.1-workman, had to contest the



CWP-163-2018

-10-

litigation for about 12 years, this Court is of the considered view that ends of justice would be met by awarding him a lump sum compensation of Rs.1.00 lakh for each completed year of service, with the petitioner-management, which comes to Rs.3.00 lakhs.

14. Consequently, the impugned Award is modified to the extent that respondent no.1-workman, shall be entitled to a lump sum compensation of **Rs.3.00 lakhs**, in lieu of reinstatement with continuity of service.

15. The petitioner-management is directed to remit the aforesaid amount in the bank account of respondent no.1-workman, i.e. A/C No.043292000003987, IFSC YESB0000432, Yes Bank, Hayatpur, Gurugram, within a period of six weeks from the date of receipt of a certified copy of this order. Failing which the said amount shall carry interest at the rate of 6% per annum on account of delayed payment.

16. **Disposed of** accordingly.

17. All pending application(s), if any, also stand **disposed of** accordingly.

May 12, 2026
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No