



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 286)

(1) CWP-22364-2020
Date of Decision : 02.04.2025

Sita Devi

...Petitioner

Versus

Vaish Education Society and others

...Respondents

(2) CWP-22368-2020

Meena Kumari

...Petitioner

Versus

Vaish Education Society and another

...Respondents

(3) CWP-22439-2020

Rajbala

...Petitioner

Versus

Vaish Education Society and others

...Respondents

(4) CWP-22483-2020

Santosh Kumari

...Petitioner

Versus

Vaish Education Society and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajesh Hooda, Advocate for the petitioner(s)
in all cases.

Mr. Lokesh Sharma, Advocate for the respondents.



Harsimran Singh Sethi J. (Oral)

1. This is the bunch of 04 petitions, the details of which are mentioned in the heading, the grievance being raised by the petitioner-employees is that on the same date, the services of the 18 employees were retrenched by the Vaish Education Society.

2. Learned counsel for the petitioner-employees argues that all the workers whose services were terminated/retrenched, approached the Labour Court challenging the order dated 15.12.2015 on the ground that they had already completed 240 days and they were working in the regular pay scale and their services have been terminated by the respondent-Society by violating the provisions of Industrial Disputes Act, 1947 (hereinafter referred to as '1947 Act'). Learned counsel for the petitioner-employees argues that surprisingly though the facts of all the retrenched or terminated employees were identical, two different Awards dated 13.11.2019 (Annexure P-2) and 07.08.2018 were passed by the Labour Court. Learned counsel submits that in case of the 09 employees, the grievance that their services have been terminated in violation of the provisions of 1947 Act has been accepted while passing the Award dated 07.08.2018 whereas, in the case of the petitioner-employee, the same was not accepted while passing the impugned Award dated 13.11.2019.

3. Learned counsel for the petitioner-employee argues that once a contradictory Award dated 07.08.2018 was passed allowing the benefit to the Workmen and that too on the same facts, the Award dated 13.11.2019 (Annexure P-12) may kindly be set-aside.



4. Learned counsel for the petitioner-employees further submits that the Award dated 07.08.2018 which was against the Vaish Education Society qua the similarly situated employees, were challenged by filing various writ petitions including CWP No. 20416 of 2017 and vide order dated 18.04.2024 of this Court, the Award dated 07.08.2018 has been upheld but with certain modifications that the reinstated employees will only get 50% of the back wages. Learned counsel submits that keeping in view the fact that the Award passed dated 07.08.2018 in the case of the similarly situated employee, namely, Hari Om which has already been upheld, the Award dated 13.11.2019 (Annexure P-2) passed against the petitioner may kindly be set-aside.

5. Learned counsel for the respondents, on the other hand, submits that both the Awards were passed on the facts of their own cases and in the case of the petitioner-employee, the argument of the Society that the students strength had decreased, had been accepted by the Tribunal to decline the benefit of reinstatement whereas, the benefit to the Workman-Hari Om was granted that there was no reduction in the strength of students and, therefore, two different decisions which have been taken by the Tribunal are on the basis of the separate facts and, therefore, the petitioner-employees should not place reliance upon the order passed by the Tribunal in Hari Om's case i.e. Award dated 07.08.2018 so as to claim the relief. Learned counsel submits that the Award dated 13.11.2019 (Annexure P-2) is perfectly valid and legal and should be upheld.



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

7. It may be noticed that the services of all the employees who were 18 in numbers, were terminated by the Society on the same date i.e. on 15.12.2015. The reason qua all the employees to terminate their services was that due to the decrease in the students strength, their services are no longer required in the institution. Once, in an Award which was passed on 07.08.2018, the said reason given has not been accepted to be correct and a Workmen has been ordered to be reinstated with full back wages, contrary view could not have been taken in an Award which has subsequently passed on 13.11.2019 (Annexure P-2) qua the remaining workmen.

8. Once, a particular Award dated 07.08.2018 on the same issue regarding the similarly situated 09 employee whose services were also terminated on the same ground, was given in favour of the Workmen disbelieving the version given by the Society, accepting the same version of the Management in the subsequent Award qua other 09 employees will not be a correct proposition. The judicial propriety demands that earlier Award dated 07.08.2018 passed in favour of the similarly situated 09 employees should have been taken into consideration so as to decide the issue in the subsequent case qua the remaining 09 employees who are also similarly situated employees.

9. Further, by two contradictory Awards, similarly situated employees have been treated differently by the Labour Court. Once, all the 18 employees were retrenched/their services were terminated on the same



ground, two different yardsticks/two different findings could not have been recorded on the same issue by the Labour Court. Whereas, in the case of Hari Om, the reduction of strength i.e. the reason given by the Vaish Education Society to terminate the employees has been disbelieved whereas, in the cases of the petitioner-employees, the said reason given by the same Management has been accepted and impugned Award dated 13.11.2019 (Annexure P-2) has been passed by the Labour Court.

10. Further, this Court is now required to adjudicate as to which reason should be accepted, whether the Award given in the case of Hari Om dated 07.08.2018 should be accepted so as to allow the present petition or the Award dated 13.11.2019 should be accepted to dismiss the present writ petition.

11. It has been conceded by the learned counsel for the respondent-Society that the Award dated 07.08.2018 passed in the case of Hari Om allowing the claim of the Workman has already been upheld by the Coordinate Bench of this Court while passing the order dated 18.04.2024 though, the final relief has been modified to the extent that only 50% of the back wages are to be given upon reinstatement of the employees.

12. That being the position, this Court cannot take a contrary view as in the case of Hari Om also i.e. qua the similarly situated employees, the Award has already been upheld.

13. Further, once an Award had already been passed on 07.08.2018 allowing the plea of 09 Workmen that their services were terminated in violation of 1947 Act, the said Award should have been taken into account



by the Labour Court while passing the subsequent Award dated 13.11.2019 (Annexure P-2). The prior Award has totally been ignored by the Labour Court while declining the relief to the petitioner-employees in the subsequent matter. Hence, once the earlier Award dated 07.08.2018 passed in the case of Hari Om has already been upheld by this Court and nothing evident has been brought to the notice of this Court that the petitioner-employees herein are different in any manner, the Award dated 13.11.2019 (Annexure P-2) passed by the Labour Court cannot be upheld being contrary to the earlier Award dated 07.08.2018 passed in the same facts and circumstances.

14. The present bunch of 04 petitions are allowed. The Awards dated 13.11.2019 (Annexure P-2) are set-aside. The petitioner-employees are directed to be reinstated. It may be noticed that the relief which has been granted to the similarly situated employees by the Co-ordinate Bench while deciding CWP No. 20416 of 2017 in paragraphs 15 and 16 is also to be implemented qua the petitions as well. Paragraphs 15 and 16 are as under :-

*“15. Accordingly, while maintaining the findings recorded by the Tribunal, answering the references in question in favour of the workmen qua termination of their services and reinstatement, the impugned award(s) dated 27.02.2017, is/are upheld, with the only modification to the extent of back wages. Thus, it is ordered that respondent No. 2 – workmen in these petitions, shall be entitled to **50% back-wages** instead of **full back-wages** and all other consequential benefits. Further, the petitioner/management shall make complete payment of 50% back-wages and other dues, if any, to respondent No. 2 – workmen, within a period of two months from today, failing which the award(s) dated 27.02.2017, passed by the Tribunal*



shall enure. In such eventuality, respondent No. 2 – workman will be entitled to claim ‘full back-wages’, as already ordered by the Tribunal.

16. As pointed out by learned Senior counsel, and also observed here-above, in some of the execution proceedings preferred by respondent No. 2 - workmen, the Executing Court has already passed orders for attachment of bank accounts of the petitioner/management and also issued warrants of attachment, therefore, to safeguard the interest of the petitioner/management and also enabling it to make payment(s) to respondent No. 2 – workmen, operation of such orders for attachment of bank accounts as also warrants of attachment, issued by the concerned Executing Court, in different execution petitions instituted by respondent No. 2 – workmen herein, shall remain stayed till 01.07.2024 only. In case of non-compliance of the statement made on behalf of the petitioner/management today before this Court, it will be open for the Executing Court to proceed with the execution proceedings, in accordance with law.”

15. The present bunch of 04 writ petitions are also allowed in the same terms. The petitioner-employees will also be entitled for the reinstatement along with 50% of back wages.

16. Pending miscellaneous application, if any, also stands disposed of.

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

April 02, 2025
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No