

**CWP-8541-2019 (O&M) and
other connected matters**

2025:PHHC:062575



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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 107+236)**

**(1) CWP-8541-2019 (O&M)
Date of Decision : 06.05.2025**

Budhi Chand Sharma

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Gurugram
and another**

...Respondents

**(2) CM-6682-CWP-2025 in/and
CWP-11065-2019 (O&M)**

Metso Mineral Mazdoor Union, Bawal, District Rewari

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon and
others**

...Respondents

(3) CWP-8558-2019 (O&M)

Prahlad Kaushik

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Gurugram
and another**

...Respondents

(4) CWP-8560-2019 (O&M)

Rohtash Singh Dhillon

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Gurugram
and another**

**CWP-8541-2019 (O&M) and
other connected matters**

2025:PHHC:062575



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...Respondents

(5)

CWP-8572-2019 (O&M)

Phool Singh

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Gurugram
and another**

...Respondents

(6)

**CM-2356-CWP-2024 ;
CM-2357-CWP-2024 in/and
CWP-8580-2019 (O&M)**

Devender Kumar

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Gurugram
and others**

...Respondents

(7)

CWP-8586-2019 (O&M)

Mahender Singh

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Gurugram
and another**

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Lajpat Rai Sharma, Advocate for
Mr. Vivek Khatri, Advocate for the petitioner(s)
in CWP-8541-2019, CWP-8558-2019, CWP-8560-2019,
CWP-8572-2019, CWP-8580-2019 & CWP-8586-2019.

Mr. Ajay Chaudhary, Advocate for the petitioner
in CWP-11065-2019.



Mr. Pawan Kumar Mutneja, Senior Advocate with
Mr. Viranjeet Singh Mahal, Advocate and
Ms. Seema Pasricha, Advocate for respondent No. 2
CWP-8541-2019, CWP-8558-2019, CWP-8560-2019,
CWP-8572-2019, CWP-8580-2019, CWP-8586-2019 and
CWP-11065-2019.

Harsimran Singh Sethi J. (Oral)

CM-6682-CWP-2025 in CWP-11065-2019

Present application has been filed for placing on record counter affidavit of respondent No. 2.

Application is allowed and counter affidavit of respondent No. 2 is taken on record with all just exceptions.

CM-2356-CWP-2024 in CWP-8580-2019

Application is allowed, as prayed for.

**CWP-8541-2019, CWP-11065-2019, CWP-8558-2019, CWP-8560-2019,
CWP-8572-2019, CWP-8580-2019, CWP-8586-2019**

1. In the present bunch of seven petitions, the details of which are mentioned in the heading, the challenge is to the Award passed by the Labour Court by which the retrenchment of the petitioner(s)-workmen from the employment of the respondent-Company has been held to be valid. Despite holding the said retrenchment valid, keeping in view the prolong litigation between the parties, as the petitioner(s)-workmen had not collected their retrenchment compensation ranging from ₹2,50,000/- to ₹5,00,000/- has been awarded as a lump sum compensation by the Labour Court to each of the retrenched employee. The grievance which is being raised by the petitioner(s)-workmen in the present petitions is that the Award



had been passed without appreciating the factual aspect as well as the material evidence, which has been brought on record.

2. Learned counsel for the petitioner(s)-workmen argue that the assertion that juniors to the petitioner(s)-workmen were retained, has not been looked into in the correct perspective by the Labour Court so as to record the finding that no junior was retained by the respondent-Company. Learned counsel further submits that certain persons were appointed after the retrenchment, which fact has also gone unnoticed. The argument of the learned counsel for the petitioner(s)-workmen is that once the juniors to the petitioner(s)-workmen were retained, the respondents failed to apply last cum first go rule hence, the Award passed by the Labour Court holding the retrenchment of the services of the petitioner(s)-workmen valid, may kindly be set-aside and the petitioner(s)-workmen be directed to be reinstated in service of the respondent-Company with continuity and back wages along with interest.

3. Upon notice of motion, the respondents have appeared and have defended the Award. Learned senior counsel appearing on behalf of respondent No. 2 submits that once no names were given by the petitioners-workmen while filing the claim petition, who according to them were junior, the assertion that the juniors have been retained, is incorrect. Learned senior counsel further submits that the said issue has been looked into by the Labour Court and a finding has been recorded that the retrenchment has been done on the basis of the seniority list maintained in the different Cadre and only the junior employees have been retrenched and the said finding has not



been able to be shown to be perverse, therefore, the Award is perfectly valid and same may kindly be upheld.

4. Learned senior counsel appearing on behalf of respondent No. 2 further submits that qua two employees who were being stated to have been employed after the retrenchment, it has been already brought on record in evidence that such employees were not appointed by the respondent-Company but were working through the Contractor for specific work and, therefore, their employment will not render the retrenchment of the petitioner(s)-workmen invalid.

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

6. The issue which the Labour Court was required to decide, was on the basis of the pleadings of the parties as well as the material evidence, which has been brought on record. It is a conceded position that while pleading, no name of any junior was mentioned though, an averment was made that while retrenching the petitioner(s)-workmen from service, juniors were retained. In respect to the said averment, the respondents had brought a seniority list in each Cadre on record so as to show that the petitioner(s)-workmen were the junior most workmen working in the particular Cadre and the respondent-Company had different hierarchy of skilled worker, semi-skilled worker and unskilled worker. The said seniority list has been taken into account to hold that in the aforementioned seniority list, eleven workmen whose services have been retained, were the junior most. Once, the said finding has been recorded on the basis of the seniority list of each



Cadre, the claim of the petitioner(s)-workmen that the juniors have been retained, cannot be accepted.

7. With regard to the averment that during the evidence, certain names were brought before the Labour Court that the said persons have been retained despite being junior, it may be noticed that those name i.e. alleged junior employees have also not been co-related with the seniority list in the Cadre in which the petitioner(s)-workmen were working to prove that such employees were shown junior to them. Once, petitioner(s)-workmen failed to prove the said fact on the basis of record and even before this Court, on the basis of any seniority list maintained by the respondent-Company, it has not been shown that any junior to the petitioner(s)-workmen has been retained in service, the findings which have been recorded by the Tribunal that no junior to the petitioner(s)-workmen has been retained while retrenching the services of the petitioner(s)-workmen, cannot be treated to be perverse to the material evidence or the facts brought on record.

8. Further, it may be noticed that the affidavit has been filed by the respondent-Company qua certain names, who were being claimed to be juniors to the petitioner(s)-workmen. It has already been mentioned by the respondent-Company in the affidavit filed before this Court that such employees, who were being claimed to be the juniors of the petitioner(s)-workmen, they were working in the different Cadre on the different post. Hence, there was no comparative seniority of a skilled worker with that of an unskilled worker. That being so, the assertion that the juniors working in the



skilled category who were appointed after the petitioner(s)-workmen have been retained, so as to contend the Award is bad, cannot be accepted.

9. With regard to the assertion of the learned counsel for the petitioner(s)-workmen that certain employees were employed after the retrenchment, it may be noticed that it has already been clarified by the respondent-Company even before the Labour Court that such employees were working through an outsourcing basis and were not employees of the respondent-Company. The said fact has not been controverted by the learned counsel for the petitioner(s)-workmen by placing any document on record.

10. With regard to the challenge of some of the petitioner(s)-workmen that the closure of the Company and thereafter their retrenchment upon closure is bad as, there were another Unit of the respondent-Company at Alwar which was working, hence the petitioner(s)-workmen should have been adjusted there, the said argument can also not be accepted in view the settled principle of law, wherein, the Hon'ble Supreme Court of India has held that even where the workman was working in a particular Unit which has been closed, it cannot be said that they are entitled for accommodation/adjustment in the other Unit being maintained by the same Organization. Reliance can be placed by the judgment of the Hon'ble Supreme Court of India ***District Red Cross Society Vs. Babita Arora and others***, (2007) 7 SCC 366. The relevant paragraph of the said judgment is as under :-

“The position in law is, therefore, well settled that if the entire establishment of the employer is not closed down but only a unit or undertaking is closed down which has no functional



integrity with other units or undertaking, the provisions of [Section 25FFF](#) of the Act will get attracted and the workmen are only entitled to compensation as provided in [Section 25FFF](#) of the Act which has to be calculated in accordance with [Section 25F](#) of the Act. The Tribunal and also the High Court clearly erred in holding that as other units of the appellant Red Cross Society like Drug De-Addiction-cum-Rehabilitation Centre, Family Planning Centre and Viklang Kendra were functioning, the termination of services of the respondent would amount to retrenchment. The Maternity Hospital was functioning as a distinct entity. It was not receiving any grant from the Government and was being run entirely on charitable basis from donations received from public. Due to financial stringency, the Maternity Hospital had to be closed down. The other three units, viz., Drug De-Addiction- cum-Rehabilitation Centre, Family Planning Centre and Viklang Kendra are receiving grants from government and are functioning as separate entities and the mere fact that they have not been closed down, cannot lead to the inference that the termination of services of the respondent was by way of retrenchment which was illegal on account of non-compliance of the provisions of [Section 25F](#) of the Act.”

11. Learned counsel for the petitioner(s)-workmen has not been able to rebut the aforementioned settled principle of law, hence, once it is a conceded fact that the Unit where the petitioner(s)-workmen were working was closed and no one had been retained, the closure of the Unit or the retrenchment of the petitioner(s)-workmen after the closure of the Unit can be treated as arbitrary.



12. The Award passed by the Labour Court in the facts and circumstances of the present case holding that the retrenchment of the petitioner(s)-workmen was valid, has not been able to be proved perverse either to the facts or to the settled principle of law, hence, no interference is called for by this Court in the present petitions.

13. Dismissed.

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

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

May 06, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No