


2025:PHHC:051065-DB 

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

LPA-966-2025 (O&M)

Date of Decision: 09.04.2025

THE EXECUTIVE ENGINEER, ENGINEERING DIVISION No.2,
BHIWANI & ANR

.....Appellants

Versus

DAYA RAM & ANR.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present:- Mr. Samarth Sagar, Addl. AG, Haryana.

SUDHIR SINGH, J.

CM-2405-LPA-2025

For the reasons given in the application, the same is allowed. Delay of 285 days in filing the appeal is condoned, subject to all just exceptions.

LPA-966-2025

Challenge in the instant intra Court appeal is to the order dated 15.05.2024, passed by the learned Single Judge, whereby the writ petition filed by the appellant was dismissed, while maintaining the award of the Labour Court directing reinstatement of the respondent-workman with continuity of service and all other consequential benefits.

2. Before the learned Single Judge, the appellants had laid challenge to the award dated 28.01.2016 passed by the Industrial

Tribunal-cum-Labour Court, Hisar (for short 'the Labour Court'), whereby the respondent-workman was held entitled to reinstatement in service with all other consequential benefits, but denied the benefit of backwages.

3. The facts of the case are that the respondent-workman was appointed as an Operator/Key man on D.C. rates with the appellant-Management. He used to operate the machine of the booster and open/close the water supply from time to time, besides repairing the pipe lines. It was the case of the respondent-workman that he continued rendering his service up to 30.09.2014, but on 01.10.2014, he was not allowed to resume his duty verbally and, thus, it was alleged by him that he was retrenched in violation of the principles of natural justice and further in violation of the provisions of Sections 25-F, 25-N, 25-G and 25-H of the Industrial Disputes Act, 1947 (for short 'the Act'). The appellant-Management had contested the aforesaid claim of the respondent-workman pointing out therein that he had never been appointed/engaged by the Management and rather, he had worked under various contractors as per the requirements of the work/job and, therefore, there was no question of retrenching him. The Labour Court found that the services of the workman were retrenched in violation of the provisions of Section 25F of the Act and accordingly, the appellants were directed to reinstate him with all consequential benefits.

4. The learned Single Judge found that the witness of the appellants (Bani Singh), produced the official record but had brought only the log book for the period 01.08.2011 to 30.09.2014 which was

maintained by the Department for running the Booster situated in the District Jail, Bhiwani. It was further observed that the said witness deposed that the attendance and payment of wages register pertaining to the respondent-workman and other employees for the period 01.08.2011 to 30.09.2014 were not available in the office of the Management. It was further found that except placing on record the list of the workmen, no other material had been produced and, thus, the stand of the Management was not found reliable.

5. Learned counsel for the appellants has vehemently argued that both, the learned Single Judge as also the Labour Court, have erred in law in holding that the respondent-workman had worked with the appellant-Management from the period 01.08.2011 to 30.09.2014. It is further argued that it has wrongly been held that the respondent-workman was retrenched in violation of the provisions of Section 25F of the Act. It is yet further argued that onus was upon the respondent-workman to prove that he had worked with the appellants for the aforesaid period, but the Labour Court and the learned Single Judge have drawn an adverse inference against the appellant-Management for not producing the relevant record, whereas the fact of the matter was that the said record was not available with the appellants-Management. It is further argued that even otherwise, more than 10 years have elapsed since the date of the alleged termination of the services of the respondent-workman and at this stage, any direction for his reinstatement along with payment of the back wages, is not tenable. Reference is made to the various judgments of the Hon'ble Supreme Court in Haryana Urban Development Authority

Versus Ompal, 2007 ILR 582, Uttranchal Forest Development Corporation Versus M.C. Joshi 2007 (2) SCT 562 (SC), in M.P. Administration Versus Tribhuwan, 2007 (2) SCT 737 (SC), Jagbir Singh Vs. Haryana State Agriculture Marketing Board and another 2009 (122) FLR 665 2009 LLR 966 (SC), 2012 LLR 718 M/s. D.S.I.I.D.C Versus Pravin Kumar Sharma.

6. We have heard the learned counsel for the appellants and have also gone through the impugned order passed by the learned Single Judge.

7. The only question that arises for consideration by this Court is whether the order passed by learned Single Judge, requires any interference.

8. The Labour Court found that except for producing the log book for the period 01.08.2011 to 30.09.2014 and the list of the workmen, no other material had been produced by the appellants. It was further found that the plea of the appellants that the respondent-workman was appointed through a contractor was meritless and no material was produced on record as regards the stand of the appellants that the respondent-workman had been employed through different contractors. The learned Single Judge had upheld the aforesaid finding of the Labour Court and consequently, dismissed the writ petition filed by the appellants.

9. We find that once it has been established on record that the respondent-workman had worked with the appellants for the period in question and once the appellants had not been able to counter the said stand of the respondent-workman, both, the Labour

Court and the learned Single Judge, were perfectly justified in ordering the reinstatement of the respondent-workman with continuity of service and all other consequential benefits, except the back wages.

10. In view of the above, we find that the findings recorded by the learned Single Judge, do not suffer from any illegality or perversity, which may warrant interference by this Court.

11. No other point has been urged.

12. In view of the above, the present appeal is dismissed.

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

**[SUDHIR SINGH]
JUDGE**

**[SUKHVINDER KAUR]
JUDGE**

09.04.2025

himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No