

2025:PHHC:032164-DB



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

LPA-2714-2024 (O&M)

Date of decision: 05.03.2025

SOMBIR

.....Appellant

Versus

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL CUM LABOUR
COURT, HISAR & ORS.

.....Respondents

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

Present:- Mr. S.K. Verma, Advocate for the appellant.

SUDHIR SINGH, J.

CM-6614-LPA-2024

For the reasons stated in application, same is allowed.
Delay of 09 days in re-filing the appeal is condoned, subject to all just
exceptions.

CM-6615-LPA-2024

For the reasons stated in application, same is allowed.
Delay of 03 days in filing the appeal is condoned, subject to all just
exceptions.

LPA-2714-2024

Challenge in the instant intra Court appeal is to the order
dated 02.08.2024 passed by the learned Single Judge, whereby the
writ petition filed by the appellant was dismissed.

2. Before the learned Single Judge, the appellant had sought setting aside of the award dated 10.09.2015 (Annexure P6 with the writ petition), whereby the claim of the appellant for re-instatement with the continuity of service had been rejected. The learned Single Judge, while dismissing the writ petition has held that the calculation error, if any, cannot entail the non-compliance of the mandatory provisions of the Industrial Disputes Act, 1947 (for short 'the Act). It was further noticed that the Management had complied with the mandate of Section 25F of the Act and, therefore, the calculation error could not amount to vitiating the entire process of retrenchment.

3. Learned counsel appearing for the appellant has vehemently contended that while retrenching the appellant on 31.03.2007, the respondent-Management did not comply with the mandatory provisions of Section 25F of the Act. It is further argued that after rejoining the services in the year 2005, the appellant had continued working with the respondent-Management from 21.09.1997 to 30.03.2007, but the respondent-Management had granted him the retrenchment compensation only for the period 21.09.1998-31.03.2007. It is further argued that while passing the impugned award, the Labour Court did not appreciate the fact that juniors to the appellant have been retained in service and they are still working and despite a specific application having been moved by the appellant before the Labour Court, the respondent-Management did not produce the relevant record, but the said material aspect had totally been ignored by the Labour Court and upon challenge, the learned Single Judge also did not take the said fact into consideration.

4. We have heard the learned counsel for the appellant and have also gone through the impugned order.

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

6. It may be noticed that CWP-19380-2005 had been preferred by the appellant seeking regularization of his service, therefore, the learned Single Judge has rightly observed that the said question was not required to be adjudicated in the present proceedings.

7. It is conceded position on record that the retrenchment compensation had been paid to the appellant. The only aspect that requires to be considered is whether the calculation error in payment of the compensation can be taken a ground to hold that the retrenchment proceedings were vitiated. The learned Single Judge has dealt with the said aspect of the matter, while concluding as under:-

“8. From the perusal of record, it comes out that respondent while retrenching the petitioner had paid a sum of Rs.13,468/-. The payment was made under three different heads. The petitioner is not disputing payment under two heads, however, he is disputing payment under third head i.e. compensation. As per him, actual amount comes to Rs.3328/- whereas as per Management it was Rs.1820/-. The calculation error, if any, cannot entail non-compliance of mandatory provisions. The Management has complied with mandate of Section 25F of 1947 Act and there is a minor calculation error, if any, which is further not accepted by Management. If a small amount has not been paid on account of calculation error, it cannot entail vitiating the entire process of retrenchment. The petitioner is also claiming regularization of service and for the said purpose, he had filed a separate petition i.e.

CWP No.19380 of 2005, thus, this question is not required to be answered.”

8. We find that once the retrenchment compensation had been paid to the appellant, a small error of calculation cannot lead to the vitiation of the retrenchment proceedings particularly when, the retrenchment compensation was paid to the appellant. We find that the said aspect has been dealt with by the learned Single Judge and even on re-appreciation of the submissions made by the learned counsel for the appellant, we find no illegality or perversity in the impugned order passed by the learned Single Judge.

9. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.

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

[SUDHIR SINGH]
JUDGE

[SUKHVINDER KAUR]
JUDGE

05.03.2025

himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No