

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

109

**CM-9177-CWP-2025 in/and
CWP-14864-2004 (O&M)
Decided on : 09.07.2025**

**GENERAL MANAGER HARYANA ROADWAYS ROHTAK
..PETITIONER**

Versus

SURINDER SINGH AND ANOTHER ..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Saurabh Girdhar, AAG, Haryana.

Mr. Sandeep Parkash Chahar, Advocate
for the applicant-respondent No. 1.

HARSIMRAN SINGH SETHI, J. (Oral)

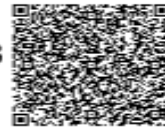
CM-9177-CWP-2025

The present application has been filed by the respondent-workman for fixing the actual date of hearing of the present writ petition i.e. CWP No. 14864-2004 as the workman, who was reinstated in pursuance of the award dated 04.06.2002 (Annexure P-7) is still waiting for amount qua the benefit of 70% back wages which was granted to him by the labour Court but, the said benefit have been stayed by this Court.

Notice of the application.

Mr. Saurabh Girdhar, AAG, Haryana, appears and accepts notice on behalf of non-applicant-petitioner and does not raise any objection, in case, prayer made in the present application is allowed.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the same is allowed. Consequently, on the joint request of both the parties, the main writ petition is taken up for



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hearing today itself for final decision.

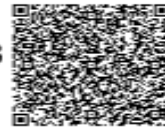
CWP-14864-2004

1. In the present petition, the challenge is to the impugned award dated 04.06.2002 (Annexure P-7) by which, the termination of the services of the respondent -workman was held to be bad and he was directed to be reinstated in service with continuity alongwith the benefit of 70 % back wages from the date of demand notice dated 04.07.1996 onwards.

2. Learned counsel for the petitioner argues that during the pendency of the writ petition, as only the benefit of 70% back-wages granted to respondent-workman was stayed by Co-ordinate Bench of this Court vide order dated 04.08.2006 and in accordance to the impugned award, the respondent-workman was reinstated in service by the petitioner-department, therefore, the only question which is to be decided is whether the grant of benefit of 70% back wages to the respondent-workman in the facts and circumstances of the present case is valid or not.

3. Learned counsel for the petitioner submits that the benefit of 70% back-wages is to be granted to the respondent-workman, in case, he was not the gainfully employed during the period he remained out of service after his termination from service. Learned counsel for the petitioner further submits that the said fact has to be pleaded and also proved by the workman on the basis of the facts and evidence brought on the record.

4. Learned counsel for the petitioner further submits that no evidence that the respondent-workman was not gainfully employed during the period after his termination has been brought on record but still, the benefit of 70% back-wages has been granted to the respondent-workman by



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the labour Court which is arbitrary, illegal and contrary to the facts and circumstances of the present case, hence, the grant of benefit of 70% back-wages in the facts and circumstances of the present case are liable to be rejected.

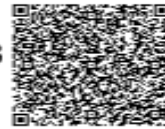
5. Learned counsel for the petitioner further submits that keeping in view the facts of the present case where, the respondent-workman was working as a helper on temporary basis and had left the job more than once on his own and did not join back in the job again despite the telegrams were sent to him by the petitioner to perform the duties, hence, under these facts and circumstances of the present case, the benefit of 70% back wages is liable to be rejected.

6. Learned counsel for the respondent-workman submits that once, the findings have been recorded by the labour Court that the termination of the service of the respondent-workman was bad, the necessary consequential benefits and the benefit of 70% back-wages which have been granted to the respondent-workman from the date of demand notice dated 04.07.1996 is perfectly valid and the said findings of the labour Court needs to be upheld.

7. I have heard learned counsel for the parties and have gone through the case file with their able assistance.

8. The benefit of back-wages is to be granted to compensate an employee whose services have been terminated in violation of the provisions of Industrial Disputes Act, 1947, in case, such employee does not remain gainfully employed during the period, he/she remained out of the services.

9. As per the settled principle of law, it is upon the workman to plead that he/she was not gainfully employed during the period after his termination and has to prove the same in order to gain the benefit of back-



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wages. On being asked by this Court to provide such factual averments in the claim petition as well as the evidence brought on record to show that the respondent-workman was not gainfully employed, learned counsel for the respondent-workman has not been able to show any such evidence.

10. Further, when the benefit of 70% back-wages was granted to the respondent-workman by the labour Court, the same has to be granted by giving due reasons. In the present case, not even a single reason has been given by labour court while passing the impugned order that the respondent-workman was not gainfully employed during the period he remained out of service but still, the benefits of 70% back wages have been granted by the labour Court to him. This shows that the grant of benefit of back wages has been given on the *whims and fancies* of the presiding officer and is not based upon the facts and evidence brought on record, hence, the grant of benefit of 70% back-wages granted vide impugned award dated 04.06.2002 (Annexure P-7) cannot be accepted in the facts and evidence of the present case.

11. Accordingly, the findings recorded in the impugned award dated 04.06.2002 (Annexure P-7) with regard to grant of reinstatement in service with continuity are upheld but the grant of benefits of 70% back-wages from the date of demand notice dated 04.07.1996 is hereby set-aside.

12. The present writ petition is partially allowed in above terms.

**(HARSIMRAN SINGH SETHI)
JUDGE**

09.07.2025

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Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No