2025:PHHC:101314

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

213 **CWP-3819-1999 (O&M)**
Date of Decision : 06.08.2025

Chief Administrator, HUDA, Manimajra, (U.T) Chandigarh and another …Petitioners

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon and another ...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Ms. Kushaldeep Kaur, Advocate and
Ms. Sharvi Dadhwal, Advocate
for the petitioner.

Ms. Sanchi Bindra, Advocate and
Mr. Harsh Aggarwal, Advocate
for the respondents.

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KULDEEP TIWARI, J.(ORAL)

1. The instant writ petition filed under Article 226/227 of the Constitution of India, is directed against the Award dated 07.08.1998 (Annexure P-3), passed by the learned Industrial Tribunal, wherethrough, the reference was answered in favour of the respondent no.2-workman, and he was held entitled for re-instatement with continuity of service, and full back wages from the date of demand notice i.e. 22.06.1990. The said Award has been put to challenge by the petitioners.

Proceedings before this Court

2. This Court at the time of issuance of notice of motion vide order dated 19.03.1999, stayed the operation of the impugned Award. As a result, this petition has remained pending since 1999, and due to the stay order, the respondent-workman has been unable to join his duties.

3. Thereafter, a miscellaneous application baring no.CM-2372-2004, was filed under Section 17-B of the Industrial Disputes Act, 1947 (for short the 'ID Act'), which was allowed vide order dated 13.02.2004, and a direction was passed upon petitioners, to comply with the provisions of Section 17-B. The relevant part of the order, is extracted hereinafter:-

> "Notice of present application to the learned counsel for the non-applicant.
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> Shri Kamal Sehgal, the learned counsel for the non-applicant, who is present in the Court, accepts notice.
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> The prayer made in the present application is to issue directions under Section 17-B of the Industrial Disputes Act. It has been averred in the application that the workman is not gainfully employed and as such he is entitled to the provisions of Section 17-B of the Industrial Disputes Act.
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> In view of the facts and circumstances of the case, it is directed that the operation of the impugned award passed by the learned Labour Court shall remain stayed subject to provisions of Section 17-B of the Industrial Disputes Act. Accordingly, the management petitioner shall comply with the aforesaid directions within a period of three months from the date of a certified copy of this order is received."

4. Before this Court examine the submissions made by learned counsel for the parties concerned, and evaluate the legality of the impugned Award, it is imperative to have a glimpse upon facts of the case, *qua* which there is no wrangle amongst the parties concerned.

i. Respondent no.2 was appointed as Mali on daily wages on 01.12.1986, and his services were terminated on 01.01.1990.

ii. According to the petitioners, respondent no.2-workman, was engaged on a temporary muster roll basis as a daily wage worker, and was employed from 01.12.1986 to 01.12.1989 with frequent interruptions in service. The petitioner did not work continuously, and finally, left the job on his own sweet will on 01.12.1989.

iii. The learned Tribunal upon perusal of the evidence so led by the parties, concluded that respondent no.2-workman has rendeered duty continuously, and had completed 240 days in the year preceding the date of termination of his service. Therefore, on account of infraction of Section 25-F of the ID Act, the impugned Award was passed, wherethrough, respondent no.2-workman, was held entitled for reinstatement with continuity of service and back wages from the date of demand notice dated 22.06.1990.

Submissions made on behalf of petitioners-management.

5. Learned counsel for the petitioners submits that respondent no.2–the workman, has not been in employment, with the management since 1990. Therefore, after a lapse of more than 08 years, directing reinstatement of the workman is neither justified nor practicable.

6. She further submits that the learned Tribunal has ordered reinstatement only on account of infraction of Section 25-F of the ID Act, which is only a procedural lapse. Therefore, the learned Tribunal ought have awarded compensation instead of ordering reinstatement.

Submissions made on behalf of respondent no.2-workman.

7. The submissions made on behalf of the petitioners-management were opposed by the learned counsel for respondent no.2– the workman. She submitted that the respondent no.2 had worked for more than 240 days in the year preceding of his termination, and that there was no compliance with Section 25-F of the Industrial Disputes Act, which led to the passing of the impugned Award. She further argued that there is no perversity or illegality in the impugned Award warranting interference by this Court. While drawing attention of this Court towards order dated 13.02.2004, she submit that the petitioners-management though made compliance of Section 17-B of the ID Act, but such compliance was made only upto 2017, and thereafter, respondent no.2-workman, was not paid wages in accordance with Section 17-B.

8. She also submits that respondent no.2-workman, has also filed an application (CM-4639-CWP-2025) seeking to place on record certain documents, so as to establish that he was allowed to rejoin the service despite stay granted by this Court, and he has worked uptil August 2017. Therefore, in the instant case, the present petitioners-

management are still entitled for reinstatement of respondent no.2-workman, despite the lapse of **27 years** from the date of termination.

Analysis

9. Before this Court proceed further, it is apt to mention that vide order dated 11.02.2025, a co-ordinate bench had directed both the parties to file their respective affidavits, to the effect that, "as to whether respondent no.2-workman, is working with the petitioner-institute or not. If not, whether, the wages as per the provisions of Section 17-B has been paid, if not, then why."

10. In deference to the direction (*supra*), the petitioners-management filed a specific affidavit sworn in by Sh. Davender Singh, Executive Engineer, Horticulture, HSVP, Gurgaon, to submit that the respondent no.2-workman was paid wages in pursuance of Section 17-B only uptill 2017, and thereafter, without any reasons the payment was stopped. Further, it was informed that from the mustar-roll and the service record of the division concerned, he does not find that the respondent no.2-workman is still working with petitioners-management.

11. So far as the evidence which respondent no.2-workman, has brought on record by way of Annexures R-2 to R-4, this Court finds that there is no substance in the submissions made by learned counsel for respondent no.2-workman that he was working uptill August, 2017.

12. Annexure R-2 has also been perused, whereby, it is clearly mentioned by the petitioner authority concerned, that the workman is not

required to be reinstated in service till the final decision of the writ petition, rather the compliance of order dated 13.02.2004, has to be made. However, respondent no.2-workman be paid wages at the rate last drawn by him from the date of filing of this writ petition till the decision of the case. The relevant part thereof is extracted hereinafter:-

> "In the said case, as the award of Labour Court has been stayed in terms of Section 17-B of I.D.Act, hence the workman is not required to be reinstated in service till final decision of the CWP. However, Sh.Karamvir be paid the wages at the rate last drawn by him from the date of filing of CWP till the decision of the case. You are informed for implementation of the order of the Hon'ble High Court dated 13.02.2004 accordingly."

13. This Court can not rely on the bald submissions made on behalf of respondent no.2-workman, that he continued to work until August 2017. Therefore, same is rejected.

14. This Court is of the considered view that, after the lapse of 35 years, reinstatement of respondent no.2-workman is not justifiable, specifically, when the termination of workman was found to be illegal, due to infraction of Section 25-F of ID Act, only.

15. This Court finds vigor regarding this observation from the judgment rendered by the Hon'ble Supreme Court in '**BSNL vs. Bhurumal', (2014) 7 SCC 177**. The relevant part thereof is extracted hereinafter:-

> "33. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a

position where services of a regular/permanent workman are terminated illegally and/or mala fide and/or by way of victimisation, unfair labour practice, etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view that in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice.

34. The reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily-wage basis and even after he is reinstated, he has no right to seek regularisation [see State of Karnataka v. Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753]]. Thus when he cannot claim regularisation and he has no right to continue even as a daily-wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

35. We would, however, like to add a caveat here. There may be cases where termination of a daily-wage worker is found to be illegal on the ground that it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularised under some policy but the workman concerned terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied."

16. It was further followed by the Hon'ble Supreme Court in '**Ranbir Singh vs. Executive Eng.P.W.D.**' (Civil Appeal No.4483 of

2010), vide judgement dated 02.09.2021, with the following observations, which is extracted hereinafter:-

> 6. In the light of the state of the law, which we take note of, we notice certain facts which are not in dispute. This is a case where it is found that, though the appellant had worked for 240 days, appellant's service was terminated, violating the mandatory provisions of Section 25F of the Act. The authority involved in this case, apparently, is a public authority. At the same time, it is common case that the appellant was a daily wager and the appellant was not a permanent employee. It is relevant to note that, in the award answering Issue No.1, which was, whether the termination of the appellant's service was justified and in order, and if not, what was the amount of back wages he was entitled to, it was found, inter alia, that the appellant could not adduce convincing evidence to establish retention of junior workers. There is no finding of unfair trade practice, as such. In such circumstances, we think that the principle, which is enunciated by this Court, in the decision, which is referred to in Raj Kumar (supra), which we have referred to, would be more appropriate to follow. In other words, we find that reinstatement cannot be automatic, and the transgression of Section 25F being established, suitable compensation would be the appropriate remedy.
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> 7. In such circumstance, noticing that, though the appellant was reinstated after the award of the Labour Court in 2006, the appellant has not been working since 2009 following the impugned order, and also taking note of the fact that the appellant was, in all likelihood, employed otherwise, also the interest of justice would be best subserved with modifying the impugned order and directing that in place of Rs. 25000/- (Rupees Twenty Five Thousand), as lumpsum compensation, appellant be paid Rs.3.25 lakhs (Rupees Three Lakhs and Twenty Five Thousand), as compensation, taking into consideration also the fact that the appellant had already been paid Rs. 25000/- (Rupees Twenty Five Thousand) as compensation."

17. In the instant case, the services of respondent no.2-workman, were terminated way back on dated 01.01.1990. Since then, he has been relentlessly pursuing his legal remedies against the action of the petitioners-management.

18. This Court also finds, that in the instant case, the order of

reinstatment in service cannot be passed, as about more than 35 years have passed since the date of termination. Now the issue arises for consideration, as to what would be the apt compensation, payable to respondent no.2-workman. Upon a perusal of the impugned Award and the circumstances surrounding termination of respondent no.2-workman, this Court is of the considered opinion that the compensation so awarded is inadequate, and does not adequately address the hardships, suffered by respondent no.2-workman, over the years of prolonged litigation and unemployment.

19. The co-ordinate bench (Harsimran Singh Sethi, J.) of this Court, in '**State of Haryana vs. Surjeet and another**' (CWP-11057-2001, decided on 30.07.2025), has thoroughly examined issue in question, and held that the workman can be paid compensation to the tune of Rs.50,000/-, for each completed year. The relevant part thereof, is extracted hereinafter:-

> "6. As per the settled principle of law settled by the Division Bench of this Court in LPA No.1203-2021 titled as Sukhbir Singh vs. State of Haryana and others decided on 01.03.2023 , an employee is entitled for compensation in lieu of benefit of reinstatement in service. Relevant paragraphs of the said judgment are as under:-
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> > *6. Resultantly, once the workman had completed 240 days and apparently had worked for a period spanning more than 5 ½ years, we are of the considered opinion that dispensing of his service before his contractual period came to an end would entitle him for the statutory protection which would be evident from the award of the Labour Court. However, keeping in view the fact that at this point of time, it would be justified to put him back in service since a period of almost 25 years has gone by and therefore, it would be just and appropriate to award*

> *compensation to the tune of Rs.2,50,000/- on an average of Rs.50,000/- per year, keeping in view the fact that the State had taken his service for more than 5 years with the same office in different districts. 7. The Apex Court in Haryana Urban Development Authority Vs. Om Pal, (2007) 5 SCC 742 granted Rs.25,000/- for the service of one year whereas in Uttaranchal Forest Development Corporation Vs. M.C.Joshi, (2007) 9 SCC 353, for a period of 2 years, a sum of Rs.75,000/- was granted. Similarly, in Asst. Engineer, Rajasthan Development Corporation & another Vs. Gitam Singh, 2013 (1) SCR 679, the said view was followed while noticing that the service was of 8 months and thus, compensation of Rs.50,000/- was granted. Similarly, in Management, Hindustan Machine Tools Ltd. Vs. Ghanshyam Sharma, 2018 (18) SCC 80, for a period of one year, compensation of Rs.50,000/- had been granted. In K.V.Anil Mithra & another Vs. Sree Sankaracharya University of Sanskrit & another, 2021 (4) SCT 415, for a period of little over 4 years, amount awarded was Rs.2,50,000/- in lieu of the reinstatement and backwages of 50% which was granted and accordingly, modified."*
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> 7. A bare perusal of the above reproduction would show that for each completed year, instead of reinstatement, a workman can be paid compensation to the tune of Rs.50,000/ for each completed year. Keeping in view the fact that in the present case, respondent No.1-workman had worked for a period of more than 06 years, he becomes entitled for sum of Rs.3,00,000/- on the said account."

Final order

20. Taking into consideration the prolonged duration for which respondent no.2-workman has been engaged in a legal tussle, spanning over more than three decades, as well as the psychological, financial, and professional setbacks endured, this Court deems it appropriate to grant a compensation of **Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only),** to respondent no.2-workman, which, would serve the ends of justice and equity in the present matter.

21. The aforesaid compensation shall be paid to respondent no.2-workman by petitioners-management, within a period of 03 months from the receipt of a certified copy of this order. In the event of any default in payment of the compensation, petitioners-management shall be liable to pay interest at the rate of 9% per annum, to be calculated from the date of passing of this order, untill actual realisation.

22. **Disposed of** with the above directions.

(KULDEEP TIWARI)
JUDGE

August 06, 2025
dharamvir

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No