

2025:PHHC:047092-DB



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

LPA-891-2025 (O&M)

Reserved on: 27.03.2025

Pronounced on: 04.04.2025

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

Versus

VINAY KUMAR & 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-2228-LPA-2025

For the reasons given in the application, the same is allowed. Delay of 281 days in filing the appeal is condoned, subject to all just exceptions.

LPA-891-2025

Challenge in the instant intra Court appeal is to the order dated 17.05.2024, passed by the learned Single Judge, whereby while disposing of a batch of six writ petitions filed by the appellants, it was directed that the respondent-workmen shall be entitled to the backwages for the period their services remained terminated till the passing of the award i.e., from the years 2015/16 to 2018.

2. Before the learned Single Judge, the appellants had laid challenge to the awards dated 09.08.2018 and 04.10.2018 passed by the Labour Court, whereby the Labour Court had held the workman entitled to the reinstatement with continuity in service along with other consequential benefits, but declined the relief of backwages.

3. While passing the impugned order, the facts were taken from CWP-2093 of 2019 by observing that the question for adjudication was common and the same principle of law would be applicable.

4. The facts of the case are that the respondent-workman was appointed by the appellant-Management on 01.10.2013 as a 'Key Man' and posted at Dadri Road Booster, Bhiwani. He worked with the other workmen under the supervision of different Junior Engineers. On 15.03.2016, he was verbally communicated that his services were no longer required. A reference came to be made before the Labour Court. The appellant- Management had disputed the claim of the respondent-workman. The Labour Court found that as per the records produced by the official of the appellant-Management, the workman had worked continuously in the Department from 12.10.2013 to 02.09.2015 and, thus, the stand of the appellant-Management in their written statement was found to be factually incorrect. It was concluded that the respondent-workman had worked as a Key Man from 12.10.2013 to 09.09.2015 and, thus, he had completed 240 days in the preceding 12 months of his termination on 03.09.2015 and his

retrenchment was held to be in violation of Section 25F of the Industrial Disputes Act, 1947 (for short 'the Act').

5. The learned Single Judge has found that the workman was retrenched in 2015/16 and the award was passed by the Labour Court in 2018, but no backwages were ordered to be paid to him for the period, he remained out of service. It was further observed that no amount had been paid to the respondent-workman from the period of passing of the award till the date of the passing of the order by the learned Single Judge in compliance with the provisions of Section 17B of the Act. Accordingly, while disposing of the writ petition, the appellants were directed to pay the last drawn wages by the respondent-workman within a period of three months.

6. 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 12.10.2013 to 09.09.2015, whereas it was the pleaded case of the appellant-Management that the respondent-workman was never appointed by them nor he had worked with the appellant- Management at any stage. 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 backwages, 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, Uttanchal

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. Even otherwise, it is also argued that grant of wages in compliance of the provisions of Section 17B of the Act, is not tenable as no affidavit had been filed by the respondent-workman before the learned Single Judge in respect of such non-payment. It is further argued that it is settled law that the wages under Section 17B of the Act, are to be paid only if an affidavit in this regard is filed before the learned Single Judge and such wages are only to be paid from the date of the said affidavit and not otherwise. The learned counsel has further pointed out that the order passed by the learned Single Judge in respect of payment of the wages under Section 17B of the Act, runs contrary to such mandatory compliance and, therefore, the same is liable to be set aside.

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

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

9. The Labour Court has found that in view of the record produced by the official of the appellants, the respondent-workman had worked from 12.10.2013 to 02.09.2015. The said record was

relating to the duties performed by the respondent- workman and, therefore, the argument of the learned counsel for the appellants that the respondent-workman had never worked with the appellant- Management, is factually incorrect. Based on such factual position on record coupled with the evidence led, the Labour Court found that the respondent-workman was entitled to the reinstatement in service, but denied him the relief of backwages. Once, the Labour Court came to the conclusion that the respondent-workman was entitled to reinstatement in service, there was no ground to deny him the benefit of payment of backwages. The pleas raised by the learned counsel for the appellants in the present appeal have already been dealt with by the learned Single Judge in the impugned order. The submission that the wages under Section 17B of the Act, are only to be paid from the date of the affidavit, is also not tenable for the simple reason that the appellants could not point out that any payment to the respondent-workman was made or such payment was not due to him. Even otherwise, once the respondent-workman had been found to have worked from 12.10.2013 to 09.09.2015 and his services were found to have been terminated in violation of the provisions of Section 25F of the Act, the natural corollary that was to follow, was the payment of the backwages which happens in the normal course of action when the reinstatement in service is ordered by the Court or Tribunal.

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. It could not

be pointed out that any evidence has been misread or not taken into consideration.

11. No other point has been urged.

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

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

[SUDHIR SINGH]
JUDGE

[SUKHVINDER KAUR]
JUDGE

04.04.2025

himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No