



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(220)

CWP No. 1384 of 2019 (O&M)

Date of Decision : 21.05.2025

M/s Geminy Industrial Corporation

...Petitioner

Versus

Presiding Officer, Industrial Tribunal, Ludhiana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. B.S. Sudan, Advocate for
Dr. Puneet Kaur Sekhon, Advocate for the petitioner.

Mr. Lakshay Bector, Advocate for respondent No. 2.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the Award dated 04.09.2018 (Annexure P-13) passed by the Labour Court by which, the termination of the services of the respondent No. 2-workman at the hands of the petitioner was held to be bad and he was directed to be reinstated in service with continuity and full back wages from the date of demand notice.

2. Learned counsel appearing on behalf of the petitioner argues that at no given point of time, there was a termination of the services of the employee by the petitioner rather, in actuality he left the job of his own will and further, all the efforts were made by the petitioner even before the Conciliation Authority that he can come and perform the duties but, the respondent No. 2-workman was adamant on getting the benefit of back wages and, therefore, respondent No. 2-workman never came to join and the matter was sent before



the Labour Court by the Conciliation Authority for adjudication upon the matter.

3. Learned counsel further argues that the benefit of back wages can only be granted in case the same is averred and the said issue is to be decided by recording a categorical finding that the respondent No. 2-workman was not gainfully employed anywhere during the time after the termination and in the present case, not even a single strand of evidence has been brought on record by the respondent No. 2-workman which could show that he was not gainfully employed and even without recording the fact that respondent No. 2-workman was not gainfully employed but still, the benefit of 100% back wages have been granted to the workman. Learned counsel submits that the grant of benefit of back wages by the Labour Court, keeping in view the facts and circumstances of the present case is arbitrary and illegal.

4. Learned counsel for respondent No. 2-workman submits that respondent No. 2-workman had worked with the petitioner for a considerable amount of time and thereafter his services were terminated in violation of provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as '1947 Act'). Learned counsel for respondent No. 2-workman further submits that once the termination of workman's services was held to be bad, the consequence has to be grant of benefit of reinstatement in service with continuity and full back wages which has been granted by the Court and, therefore, the impugned Award dated 04.09.2018 (Annexure P-13) may kindly be upheld and the writ petition may kindly be dismissed.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.



6. Though, the petitioner-corporation is not averse in allowing the respondent No. 2-workman to join back in service in case he is willing but the question which is present for consideration is whether, in the facts and circumstances of the present case, the grant of benefit of 100% back wages is valid or not.

7. As per the settled principle of law, not only the fact that respondent No. 2-workman was not gainfully employed anywhere during the time after termination of his service has to be pleaded but also the same has to be proved by bringing on record the relevant facts and evidence. On being asked to provide the said factual averments, learned counsel appearing on behalf of the respondent No. 2-workman has not been able to point out the same.

8. Further, the grant of benefit of back wages to an employee is to compensate him/her for illegal termination from services so that the employee does not suffer any financial prejudice but, in case an employee is gainfully employed during the period after his/her termination, even after the termination of the services has been held to be bad, the benefit of back wages cannot be granted, hence, the benefit of back wages can only be granted in case, a finding is recorded to the effect that respondent No. 2-workman was not gainfully employed anywhere during the period after his termination on the basis of the facts and evidence brought on record.

9. In the present case, no finding has been recorded by the Tribunal to hold that respondent No. 2-workman was not gainfully employed anywhere so as to grant the said benefit of 100% back wages.



10. Keeping in view the totality of the facts and circumstances of the present case, the impugned Award with regard to the grant of reinstatement in service is upheld but not with regard to the grant of 100% back wages, as the same is not based upon any fact and evidence brought on record, which has been shown to this Court.

11. The grant of benefit of back wages to the employee by the Labour Court in order impugned is set-aside and the case is remanded back to the Labour Court to decide the said issue afresh on the basis of the evidence that is on record before it already. Let the parties appear before the Labour Court on 03.07.2025.

11. Petition is disposed of in above terms.

12. Pending miscellaneous application, if any, also stands disposed of.

May 21, 2025
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No