

for respondent No.2.

HARSIMRAN SINGH SETHI, J. (Oral)

1. Present bunch of three writ petitions involve common question of law in the context of common set of facts and thus they are being decided by a common order.

2. In the present bunch of petitions, the challenge is to the award passed by the Tribunal dated 03.10.2022, copy of which has been appended as Annexure P-2 by which, a direction has been given to the petitioner to reinstate the respondent No(s).2-Workmen in service along with continuity in service along with 50% of the backwages in all the cases.

3. Learned counsel appearing on behalf of the petitioner(s)-Corporation in all the cases argues that there were three workmen who were working as a operating Generators and as per the petitioner(s)-Corporation, the respondent No(s).2-Workmen had left the services on their own Will rather than their services being terminated and even before the labour Court, a statement by the petitioner(s)-Corporation was recorded that the respondent No(s).2-Workmen can come and join the services but, they did not join back.

4. Learned counsel for the petitioner(s)-Corporation submits that though, directions has been given for reinstatement of the respondent No(s).2-Workmen in service, against which benefit provided to them vide impugned order by Labour Court, the petitioner does not have any grievance but the grant of benefit of 50% of the backwages which has been granted by the said impugned order, is causing prejudice to the petitioner(s)-

Corporation.

5. Learned counsel for the petitioner further submits that nothing has come on record to show that the respondent No(s)-2 Workmen were gainfully employed during the period after their termination for which period the said benefit of 50% backwages has been provided to respondent-Workmen.

6. Further, learned counsel for the petitioner contends that even as per the statement of the respondent No(s).2-Workmen, they were performing the duties during the said period after termination, which fact is clear from the statement enclosed in Annexure P-6 dated 15.05.2019.

7. Learned counsel for the petitioner further argues that despite the impugned award by Labour Court granting the benefit of reinstatement to the respondent No(s)-2-Workmen in the service in the year 2022, respondent No(s)-2-Workmen never chose to come to join the services, which fact clearly shows that the respondent No(s)-2-Workmen were only interested in getting the backwages and not interested in performing the duties with the petitioner.

8. Upon notice of motion, the respondent(s)-Workmen have filed the reply. In the reply, the respondent(s)-Workmen have stated that once the respondent No(s).2-Workmen have been granted with the benefit of reinstatement in service along with 50% of backwages, till the amount of backwages is granted to them, no occasion arises for the respondent No(s).2-Workment to join the services.

9. Learned counsel for the respondent(s)-Workmen submits that in case, amount of 50% backwages are granted to the respondent No(s).2-

Workmen, then only they will join the services with the petitioner-Corporation.

10. I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

11. Certain facts may be noticed that the petitioner employer all along has submitted that he never terminated the services of the respondent No(s).2-Workmen and it was the respondent No(s).2-Workmen who left the job of their own Will and that the respondent No(s).2-Workmen are free to join the service. Despite, the said offer, respondent No(s).2-Workmen never joined in the services.

12. Even after the passing of the impugned award dated 03.10.2022 (Annexure P-2), the petitioner submits that the respondent No(s).2-Workmen never came back to join the duties.

13. Keeping in view the stand taken by the respondent No(s).2-Workmen, that they should be first paid the 50% of the backwages before they join the duties also shows that the respondent No(s).2-Workmen in all the cases are only interested in money (backwages). The said intention makes it clear that the respondent No(s).2-Workmen are not interested in performing the duties with the petitioner but are only interested in the amount of money they would be getting for the backwages.

14. Further, the benefit of backwages are to be granted to the respondent No(s).2-Workmen in case, they were not gainfully employed during the period the respondent No(s).2-Workmen remained out of the service after their termination.

15. In the present bunch of petitions, as per the statement in Annexure P-6 dated 15.05.2019, the respondent No(s).2-Workmen have conceded before the Labour Court that they have been working as and when any work was assigned to them.

16. That being so, the Labour Court should have looked into as to whether, the respondent No(s).2-Workmen suffered any prejudice while they were out of service or not.

17. No such finding has been recorded by the Labour Court while granting the benefit of 50% of backwages, and the same has only been granted upon the discretion of the Labour Court to grant the backwages to the respondent No(s).2-Workmen.

18. Keeping in view the totality of the circumstances, it is clear the the respondent No(s).2-Workmen are only waiting for the grant of the amount of backwages they have been granted vide impugned order of the Labour Court and have never even filed a petition qua the execution of the award qua the reinstatement in service which clearly shows their intention that they are only interested for the amount of backwages rather than performing the duties as was directed by the Labour Court in its impugned order.

19. In the totality of the circumstances, the impugned award dated 03.10.2022 (Annexure P-2) passed by the Labour Court is modified to the extent the respondent No(s).2-Workmen will be reinstated in service along with continuity but without any backwages.

20. Pending application, if any, also stands disposed of.

21. Photocopy of this order be placed on the files of other connected cases.

07-04-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO