

(2012) 01 P&H CK 0252
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 17183 of 2005

Deputy Director Animal Husbandry, Gurdaspur and another	APPELLANT
Vs	
Ranjit Singh and another	RESPONDENT

Date of Decision : 23-01-2012

Acts Referred:

Citation : (2012) 01 P&H CK 0252

Hon'ble Judges : Mahesh Grover, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mahesh Grover, J.—The petitioners impugn the award dated 21.3.2005 passed by the Presiding Officer, Labour Court, Bathinda.

2. Respondent No. 1 was employed on a class IV post with the petitioners on July 22, 1997 and worked as such till 28.9.1999 when his services along with 79 other persons were terminated. An industrial dispute was raised wherein the respondent-workman claimed an industrial reference bearing No. 162 of 2000 which was accepted and he was directed to be reinstated along with 40% back wages. This led to the filing of instant writ petition.

3. At the outset, learned counsel for the respondent-workman contends that similarly situated persons in whose cases similar writ petitions were filed, the learned Single Judge modified the award impugned to deny the workmen in those writ petitions the relief of reinstatement but confined such a relief to grant of compensation. The workmen then preferred Letters Patent Appeals in which the judgment of the learned Single Judge was set aside and the workmen were held entitled to the benefit of reinstatement while upholding the award of the Labour Court. It is thus contended by him that since the case of the respondent-workman is at par with the appellants in the Letters Patent Appeal No. 361 of 2011, decided on 12.10.2011, and on the parity of the same reasoning this writ petition deserves to be dismissed.

4. Learned counsel for the petitioners could not seriously oppose the aforesaid plea of the respondent-workman.

5. In view of the aforesaid, I am of the opinion that the issue is no longer res integra, as in similar circumstances as the one in which the respondent-workman is placed, this Court has expressed its opinion while answering LPA No. 361 of 2011 and has upheld the award of the Labour Court while negating the view of the learned Single Judge and observed as under:

11. In the present case Section 2-G of the Act is not involved. However, violation of Section 25-F of the Act is writ large and is established on record. Furthermore in the present case, the respondent-Department before the Labour Court took the objection with regard to the initial appointment of the workman. Notwithstanding this contention of the department, the workman's services could not be terminated without complying with Section 25-F of the Act in view of the ratio of Harjinder Singh's case. The Labour Court found that procedure for making selection was followed. There were instructions of the State Government dated 5.12.1996 in operation before the initial appointment of the appellant was made wherein vacancies/posts including (Class IV posts as in this case) were taken out of the purview of the Subordinate Services Selection Board and selection was made permissible through duly constituted Department Selection Committees at the State and district level. If the officiating Deputy Director made some departure here and there, the appellant was not at fault. He had responded to a public notice and opposed himself for employment and was successful.

12. In the facts and circumstances of the case, we find that the initial appointment of the appellant cannot be said to be illegal. It would at worst be irregular, therefore, capable of being cured.

13. We are constrained to say that it was the sacrosanct duty of both the State and the petitioner to have brought the said judgment in Harjinder Singh's case (supra) to the notice of the learned Single Judge but there was failure to do so.

14. We have no doubt that the appeal deserves to be allowed by setting aside the reasoning of the learned Single Judge and maintain the award passed by the Labour Court in view of the law enunciated in Harjinder Singh's case (supra).

15. In view of the above, the appeal is allowed, the order of the learned Single Judge is set aside. The award of the Labour Court would operate.

No costs.

6. In view of the observations of the Division Bench, which are extracted above, the writ petition is dismissed.