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**(2013) 08 P&H CK 0483**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : LPA No. 1333 of 2013 (O and M)**

Executive Engineer, BSNL

APPELLANT

Vs

Presiding Officer and Another

RESPONDENT

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**Date of Decision :** 01-08-2013

**Acts Referred:**

**Citation :** (2013) 08 P&H CK 0483

**Hon'ble Judges :** Rajive Bhalla, J;Bharat Bhushan Parsoon, J

**Bench :** Division Bench

**Advocate :** Anil Rathee, for the Appellant;

**Final Decision :** Dismissed

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## Judgement

Bharat Bhushan Parsoon, J.—This appeal under Clause X of the Letters Patent of 1894 is directed against the judgment dated 15.5.2013 passed by the learned Single Judge of this Court in CWP No. 11173 of 2011. The workman (Respondent No. 2), who was in the employment of the appellant as Peon-cum-Generator Operator since 5.4.1992, was terminated on 15.7.2000, without prior notice, written order or compensation. The workman had raised an industrial dispute. Industrial Tribunal vide award dated 27.1.2011 had come to the conclusion that the workman had completed more than 240 days service prior to the date of his termination and as such, his termination was contrary to the provisions of the Industrial Disputes Act, 1947 (hereinafter mentioned as the Act) and had awarded compensation of Rs. 3.00 lacs with interest @ 7% per annum to the workman, denying him reinstatement.

2. The management had challenged the said award by way of filing the civil writ petition before this Court, decision whereof is under challenge.

3. Claim of the appellant-management is that the workman had proved his case by producing documentary evidence inter-alia log book which could not have been in his possession. It is also pleaded that from 7.9.1999, labour is being supplied by the contractor, who was making payment of wages directly to them.

It is, thus, claimed that learned Single Judge did not take into account these facts and unduly relying upon version of the workman, rejected the evidence of the management. It is claimed that compensation of Rs. 3.00 lacs awarded by the Tribunal in lieu of reinstatement of the workman was also not correct as the workman had become over-age and was, thus, not to be taken back in the employment.

4. It is contended by the management that for rendering service of little more eight years, compensation of more than Rs. 5.00 lacs is excessive. Prayer for acceptance of the appeal and reversal of the impugned judgment has been made.

5. The Tribunal, after appreciating oral as well as documentary evidence led by the parties before it, had come to a firm finding regarding employment of the workman with the management on 5.4.1992, when he was unceremoniously shown the exit door from 15.7.2000, without any notice, written order or payment of compensation. Claim of the management that the workman was a casual labourer, having no direct connection with it, could not be proved by it. Stand of the management that the workman had neither been engaged nor paid by them nor was a member of their service, and rather was having no relationship of master and servant with it, could also not be proved by it and as such, the Tribunal has rightly rejected the stand of the management.

6. When neither employment of the workman nor his total period of service, as determined by the Tribunal, could be successfully repudiated, there is no reason for the management not to compensate him in an eventuality when he cannot be taken back in employment because of his having become overage. Accepting the plea of the management that compensation of Rs. 3.00 lacs awarded by the Tribunal was excessive, learned Single Judge vide the impugned judgment had reduced it to Rs. 2.00 lacs though, had maintained finding in the award regarding payment of interest with regard to period for which interest was to be paid. The impugned judgment had modified the award, making order to the following effect:--

... The award is maintained qua interest subject to modification that the words "claim petition" would be read as the date of receipt of reference by the learned Tribunal while compensation awarded is reduced from Rs. 3 lacs to Rs. 2 lacs. This would balance out the equities between the parties. On merits I find that there is no perversity or error in the findings recorded by the learned Tribunal after appreciating evidence. The writ petition is partly allowed and the award is modified accordingly.

7. Merely because compensation to the workman, even after its reduction from Rs. 3 lacs to Rs. 2 lacs has resulted in total compensation, i.e., with interest going above Rs. 5.00 lacs, should not be a matter of alarm for the management when a workman had worked hard for the organization with his sweat and blood, the management should not shirk in performance of its legal obligation under the Act.

8. The impugned judgment does not suffer from any factual or legal error. There is no merit in the appeal. Dismissed.