
(2018) 07 P&H CK 0142

In the Punjab And Haryana At Chandigarh

Case No : Latter Patent Appeal No. 200 Of 2018 (O&M)

Jagroop Singh

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 17-07-2018

Acts Referred:

Citation : (2018) 07 P&H CK 0142

Hon'ble Judges : Krishna Murari, CJ;Arun Palli,

Bench : Division Bench

Advocate : S.K. Chawla

Final Decision : Dismissed

Judgement

Krishna Murari, C.J

CM No. 494-LPA of 2018 (O&M)

1. Heard. For the reasons mentioned in the application, delay of 53 days in re-filing the appeal is condoned. Application stands disposed of.

Letters Patent Appeal No. 200 of 2018 (O&M)

This intra-court appeal is filed by the appellant-workman challenging the judgment and order dated 09.10.2017 passed by the learned Single Judge dismissing Civil Writ Petition No.2518 of 2016 filed by him challenging the award passed by the Labour Court awarding compensation. Another Civil Writ Petition No. 9735 of 2016 filed by the State of Punjab challenging the same award was clubbed with the writ petition filed by the appellant-workman and the same has also been dismissed by the order impugned by the learned Single Judge.

2. Appellant-workman had challenged the award alleging that he was entitled for reinstatement and back wages whereas the State had come up in the writ petition challenging the award of the Labour Court granting compensation. Undisputed facts are that an industrial dispute was raised and the following

question was referred for adjudication by the Industrial Tribunal, Bhatinda:-

"whether the termination of services of workman Jagroop Singh is justified and in order and if so to what relief he is entitled?

3. As per the statement of claim preferred by the appellant-workman he was appointed in the establishment of respondents w.e.f. 24.04.1997 on the post of Chowkidar but was made to work as driver and was getting Rs.79.09/- per day as wages. His services were terminated on 28.02.2002 without any notice, charge-sheet, enquiry or compensation. It was also stated that initially a civil suit was filed by him challenging his termination before the Civil Court which was finally dismissed by this Court vide order dated 14.03.2011 passed in a second appeal granting him liberty to avail any other alternative remedy. It was only thereafter an industrial dispute was raised.

4. The proceedings were contested by the respondents by filing written statement on the ground INTER-ALIA that the workman was never appointed as regular Chowkidar but was only made to work as a contingency chowkidar and wages have been paid to him as per the DC rate. It was further pleaded that his services were never terminated rather the contractual appointment was not extended after 28.02.2002 when it automatically came to an end.

5. Relying upon the documentary evidence produced by the parties and in particular various appointment orders, the Tribunal returned a finding that the appellant-workman was appointed as a Chowkidar on daily wages for the period 24.04.1997 to 28.02.1998 and thereafter the services were extended upto 28.02.1999 and he was paid wages after obtaining sanction from the Excise and Taxation Commissioner, Punjab as a contingency paid staff. The claim of the petitioner for regularization was refused by the Tribunal for the reason that the recruitment was purely temporary on adhoc basis under a contract and his appointment was not on any regular post. The Tribunal, however, found that he has worked but his services were terminated without any opportunity and thus he would be entitled for compensation. The Tribunal while relying upon the pronouncements of the Hon'ble Apex Court in case Assam Oil Company Ltd. v. The Workman AIR 1960 SC 1264 and Bharat Sanchar Nigam Ltd. v. Bhurumal 2014(7) SCD 177, held him entitled for payment of ` 25,000/-for each completed year of service as compensation and awarded total sum of ` 1,25,000/- to be paid within two months from the date of publication of the award.

6. Learned Single Judge was of the view that since the petitioner approached for making a reference after about 9 years of termination of service, he was not entitled for reinstatement with continuity of service and back wages and upheld the award passed by the Labour Court awarding compensation.

7. In view of the law laid down by the Hon'ble Supreme Court in case BSNL V. BHURUMAL (supra), wherein it has been held that in case the service of an adhoc or daily wagger employee is dispensed with long back, in that event he may not

be entitled for reinstatement and could be adequately compensated by awarding compensation. In view of above pronouncement we do not find any illegality committed either by the Labour Court or the learned Single Judge.

8. In the facts of the case in hand, the workman-appellant was appointed on adhoc basis under a contract and had worked only for 4 years, that too with breaks and raised an industrial dispute after about 9 years of the alleged termination of services. In view of the law laid down by the Hon'ble Apex Court in BSNL V. BHURUMAL case (supra), he has rightly been awarded compensation and cannot be held entitled for reinstatement and back wages.

9. In such view of the matter, no illegality is reflected in the impugned order and judgment of the learned Single Judge requiring any interference by us.

10. The appeal is thus devoid of merits and accordingly stands dismissed in limini.