
(2009) 04 P&H CK 0095
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 13493 of 2002

Municipal Council	Vs	APPELLANT
P.O.L.C and Others		RESPONDENT

Date of Decision : 30-04-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226
Industrial Disputes Act, 1947 — Section 17B, 2, 25F, 2A
Punjab Municipal Act, 1911 — Section 233, 235, 236, 38, 39

Citation : (2009) 2 ILR (P&H) 670

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : Balram Gupta and Anamika, for the Appellant; I.P.S. Doabia, for Private Respondent No. 2 and Monica Chibbar Sharma, AAG for Respondent Nos. 3 and 4, for the Respondent

Judgement

Augustine George Masih, J.—In the present bunch of seven writ petitions, the Municipal Council, Khanna has challenged the award dated 4th May, 2001 (Annexure P-5) passed by the Labour Court, Ludhiana,—vide which the reference has been answered in favour of the workmen holding them entitled to reinstatement with continuity of service and full back wages on the ground of non-compliance of the provisions of Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act"). These writ petitions came up for hearing before this Court on 25th May, 2004, when after hearing counsel for the parties, the same were dismissed. The Municipal Council, Khanna preferred Special Leave Petitions before the Hon"ble Supreme Court, which were numbered as Civil Appeal Nos. 3254 to 3260 of 2005, which were disposed of by a common order dated 22nd March, 2006 wherein the Hon"ble Supreme Court was pleased to remit the matter to the High Court for hearing of the writ petitions afresh and to take a decision uninfluenced by the fact that the Hon"ble Supreme Court had set aside the impugned orders passed by this Court.

2. The dispute in the present cases pertains to private Respondents, who are

workmen and were appointed as Clerks except Shri Rajinder Walia, who was appointed as Bill Distributor (CWP No. 13494 of 2002). On their termination, these workmen had raised an industrial dispute and on a reference having been made by the appropriate Government, the Labour Court proceeded to decide the reference in their favour. As the factual and legal matrix is the same, they are being taken up together for disposal.

3. Municipal Council, Khanna, sent a requisition to the Employment Exchange on 24th November, 1995 to fill up six posts of Clerks and one post of Bill Distributor on contract basis on a fixed salary of Rs. 1,000 per month. On the recommendations made by the Employment Exchange, interview of the candidates was held on 26th December, 1995. In pursuance thereto, the Municipal Council issued appointment letters to the Respondents-workmen on contract basis for a period of one year at Rs. 1,000 per month. The appointment letter was dated 2nd January, 1996 (Annexure P-I), wherein a further stipulation was made that the services of the workmen are on purely temporary basis and can be terminated at any time without assigning any reasons. The contents of the appointment letter are reproduced herein as the contentions, as raised by the counsel for the parties, revolves around this appointment letter:

Sub: Appointment as a Clerk on contract basis Reference your application for the appointment as a Clerk on contract basis.

2. You are hereby informed that you are hereby appointed as a Clerk on contract basis for probation period of one year on contract basis i.e. Rs. 1,000 per month.

Your services are on purely temporary basis and can be terminated at any time without assigning any reasons.

4. After the workmen had joined, the Municipal Council, Khanna passed a resolution dated 28th February, 1996 (Annexure P-2) approving the appointment of the workmen on contract basis for a period of one year. Thereafter,--vide its resolution dated 28th September, 1996, the Municipal Council, Khanna, approved that the workmen be given appointment in the regular pay scale subject to approval of the Government. The said resolution was forwarded to the Government of Punjab for approval. No decision having been taken on the said resolution, the workmen filed CWP No. 3245 of 1997 claiming regularization of their services from the date of passing of the resolution No. 68/931, dated 28th September, 1996. However, the said writ petition was disposed of by this Court,--vide order dated 10th March, 1997, which reads as follows:

Present: Mr. N.B.S. Gujral, Advocate.

The Respondent-State of Punjab is directed to take a decision on the resolution passed by the Municipal Council, Khanna, within three months. The writ petition stands disposed of accordingly.

5. In pursuance to the directions issued by this Court, the Director, Local Government, Punjab, Chandigarh, on consideration of the resolution dated 28th

September, 1996 of the Municipal Council, Khanna, passed an order dated 20th June, 1997 (Annexure P-3), the relevant portion thereof reads as follows:

The aforesaid facts reveal that the Municipal Council, Khanna was allowed to fill up the posts of Clerks/Bill Distributor on contract basis and the Municipal Council, Khanna accordingly made the appointments of the Petitioners on contract basis. The Municipal Council, Khanna, evidently cannot be allowed to appoint the Petitioner in regular pay scale,--vide resolution No. 68/931, dated 28th September, 1996 and as such the proposal of the Municipal Council, Khanna to appoint the Petitioners in regular pay scale is hereby rejected. The Municipal Council, Khanna is directed to fill up the posts on regular basis as per the Rules and Government Instructions after following the prescribed procedure.

6. As per the above decision conveyed to the Municipal Council, Khanna, the matter was considered by the Petitioner and accordingly,--vide its resolution No. 17/1125, dated 21st July, 1997 (Annexure P-4), the Municipal Council, Khanna, resolved as follows:

Unanimously resolved that the above vacancies be filled in accordance with the rules after advertising the same. A sub-committee with the following members is constituted for filling up these posts:

1. Shri Onkar Rai Mehta, President.
2. Executive Officer, Municipal Council.
3. Shri Tejinder Pal Sharma, Councillor.
4. Shri Sant Ram, Councillor.

It is also resolved that till such time the vacancies are filled up in regular manner till then the contract period of the above mentioned employees be extended up to 31st December, 1997 so that the work of the Municipal Council does not suffer. The contract period is extended till then.

7. However,--vide letter No. 30570, dated 22nd August, 1997, the Director, Local Government, Punjab directed the Municipal Council to relieve Respondents No. 3 to 9 with immediate effect. Instead of complying with the directions issued by the Government, the Municipal Council proceeded with the selection process as per its resolution dated 21st July, 1997. The interview was fixed for 8th September, 1997. A telephonic communication dated 5th September, 1997 was sent by the Regional Deputy Director, Ludhiana, to the Executive Officer, Municipal Council, Khanna stating that the interview fixed for 8th September, 1997 be cancelled with immediate effect. Accordingly, the Executive Officer,--vide his communication dated 5th September, 1997, informed the President, Municipal Council, Khanna, and advised him not to hold the interview fixed for 8th September, 1997. Despite this communication, the interview on the date fixed was held and,--vide its resolution No. 9/1150, dated 15th September, 1997, the Municipal Council, Khanna, proceeded to select all the earlier appointed

candidates i.e. the workmen herein, on the posts of Clerks and Bill Distributor. It would not be out of way to mention here that there were objections raised by some of the members of the Municipal Council, which were recorded in the said resolution as well. The said resolution No. 9/1150, dated 15th September, 1997 was forwarded to the Government. On consideration of the said resolution, the Regional Deputy Director, Local Government, Ludhiana, stayed the resolution and the same was communicated,--vide letter dated 19th September, 1997 to the Executive Officer, Municipal Council, Khanna, which reads as follows:

Subject: Proceeding of the meeting dated 15th September, 1997 Reference: Your letter No. 368, dated 16th September, 1997 and endorsement No. Spl-I, dated 18th September, 1997 Resolution No. 9/1150: Through this resolution six Clerks and one Bill Distributor is appointed. As per. your report appointments made by Municipal Council are not made as per instruction issued,--vide letter No. EA-1-DLH-96/48185--43239, dated 29th September, 1996 and even the type test is also not conducted. As such appointments made by Municipal Council are not made as per directions, rules and regulations of the Govt, so, decision made in this resolution is stayed.

8. Despite of the stay of the resolution the President of the Municipal Council proceeded to issue appointment letters to the workmen on 19th September, 1997.

9. In compliance with the decision of the Government dated 19th September, 1997, the Executive Officer, Municipal Council, Khanna, passed an order dated 22nd September, 1997 that the order of appointment issued by the President, Municipal Council dated 19th September, 1997 be not implemented under any circumstances. Vide separate order dated 22nd September, 1997, the Executive Officer, Municipal Council, Khanna, in compliance with and as per the decision of the Government dated 22nd August, 1997, whereby instructions were issued to the Municipal Council to relieve the workmen with immediate effect, passed orders of relieving from duty the Respondents-workmen. Accordingly, the Respondents-workmen were relieved from service.

10. The workmen then served demand notice u/s 2-A of the Act stating therein that their services have been terminated without any charge-sheet, notice, enquiry or compensation in violation of the provisions of the Act. To this notice, a reply was submitted by the Municipal Council, Khanna, on 22nd April, 1998. The dispute having been referred to the Labour Court, the matter came to be decided in favour of the workmen as the Municipal Council, Khanna after having submitted its reply and after examining MW-1 and after completion of the evidence of MW-1 on 29th November, 2000. On 27th April, 2001, none had put in appearance on behalf of the Municipal Council and they were proceeded against ex parte. One witness of the workmen was examined on the said date and the case was adjourned for arguments on 4th May, 2001, when the impugned ex parte award was passed against the Municipal Council, Khanna.

11. Learned Senior Counsel for the Petitioner submits that the initial appointment of the workmen was not in accordance with the law. He contends that the workmen were issued appointment letters on 2nd January, 1996, whereas the resolution, approving the appointment of the workmen on contract basis for a period of one year was passed on 28th February, 1996. He contends that the workmen could not have been issued the appointment letters prior to the selection having been approved by the Municipal Council, Khanna. On this basis, he contends that the initial appointment itself was bad. He submits that even if the same is taken as an irregularity, but still a perusal of the appointment letter dated 2nd January, 1996 (Annexure P-1) shows that the same was in pursuance to the applications called for and submitted by the workmen on contract basis. The appointment was, therefore, given to the workmen on contract basis for a period of one year on a fixed salary of Rs. 1,000 per month. He further contends that the services of the workmen were on purely temporary basis, as has been mentioned in the said appointment letter itself, and it was further stipulated therein that the services could be terminated at any time without assigning any reason. The basic contention, therefore, of the counsel for the Petitioner is that the workmen were appointed on contract basis. Their services continued as such on contract basis, which contained a specific stipulation that their services were on purely temporary basis and could be terminated at any time without assigning any reason. The services of the workmen having been terminated as per the terms of the contract of appointment, their termination cannot be termed as retrenchment and would be covered by the exception of Section 2 (oo)(bb) of the Act, which provides that if the services of a workmen are terminated under a stipulation contained in that behalf in the contract itself, it would not amount to retrenchment. He, therefore, on this basis submits that the award passed by the Labour Court cannot be sustained and deserves to be set aside. He further submits that even if the resolution dated 21st July, 1997 (Annexure P-4) is taken into consideration, which provided for the extension of the contract period of the services of the workmen up to 31st December, 1997, the workmen, at the most, could have been allowed to continue up to 31st December, 1997 and thereafter, they had no right of continuation on that post. He further submits that even if the finding, as recorded by the Labour Court, is accepted that there was non-compliance of the provisions of Section 25-F of the Act, then also in the light of the fact that the post on which the workmen have been ordered to be reinstated is a public post, which having been filled not in accordance with the statutory Rules, as is apparent from the fact that no type test was held and no record is available, which could show that indeed interviews were held for the said post, therefore, the award cannot be sustained. He further contends that unless the decision of the Government dated 19th September, 1997 is set aside, the workmen have no right to the post as their appointment is in violation of the Rules governing the service. He relies upon the judgments of the Hon'ble Supreme Court in the cases reported as Ghaziabad Development Authority and Another Vs. Ashok Kumar and Another, , Mahboob Deepak Vs. Nagar Panchayat Gajraula and Another, , Madhya Pradesh Administration Vs. Tribhuban, and State

of M.P. and Others Vs. Lalit Kumar Verma, , to contend that the posts under the State are required to be filled up in terms of the statutory rules governing the services by inviting applications from all eligible candidates and thereafter, on consideration of the same, the appointment can be said to be a valid appointment. It has been contended that the workmen were engaged on contract basis without following the rules and principles of Articles 14 and 16 of the Constitution, therefore even if the workmen have completed 240 days of service, the said workmen were not entitled to be reinstated and also for the grant of back wages. He on this basis, contends that impugned award cannot be sustained and, therefore, deserves to be set aside.

12. On the other hand, counsel for the workmen submitted that the appointment letter dated 2nd January, 1996 although mentions the word "on contract basis" but it further states that "this appointment is for a probation period of one year". Relying on these words "for a probation period of one year" counsel for the workmen-Respondents contends that this appointment was not on contract basis but was on regular basis and, therefore, the word "for probation" finds mention in the appointment letter. He contends that the Employment Exchange as well as advertisement having been given in the newspaper, thereafter, holding interview and a proper selection, they were given appointment, all this go to show that their appointment was on regular basis.

He contends that they having been appointed on regular basis, their services could not have been terminated by the Municipal Council in the manner, they have chosen to. He, in any case, submits that assuming that the initial appointment was on contract basis, still as per the decision of the Government dated 20th June, 1997 (Annexure P-3), the Municipal Council was directed to fill up the posts on regular basis as per the Rules and Government Instructions. In compliance to the said direction issued by the Government, the Municipal Council proceeded to hold a proper selection and again selected these workmen by following the due procedure as prescribed for appointment on the posts, on which the workmen have been appointed. He contends that once they have been selected in accordance with the statutory Rules and the Municipal Council having accepted the recommendations of the Sub-Committee constituted for selection of the candidates on the posts of Clerks and Bill Distributor and having accepted the same,--vide its resolution dated 15th September, 1997 and by giving effect thereto, appointment letters were issued to the workmen on 19th September, 1997, the appointment of the workman was thus on regular basis and not on contract basis, as is being asserted by the counsel for the Petitioner. Their services could, therefore, not be terminated without holding a proper enquiry or without complying with the provisions of the Industrial Disputes Act. The petitioners having not complied with the provisions of the Act and a finding to that effect having been recorded by the Labour Court, the same deserves to be upheld as no illegality can be said to have been committed by the Labour Court while passing the award impugned herein. He further submits that the State Government has no powers and has no say in the appointment of the workmen

as these are posts, which are to be filled and fall within the exclusive domain of the Municipal Council, which is an autonomous body exercising its powers within the provisions of Punjab Municipal Act, 1911 (hereinafter referred to as "Municipal Act"). The Municipal Council having exercised its powers within its statutory domain, the same authority cannot turn around and say that it was not within its domain to exercise its powers. He submits that as per Section 39 of the Municipal Act, the Municipal Council can employ other officers and servants and can assign such remuneration as it may think fit, and may suspend, remove, dismiss or otherwise punish any officer or servant, so appointed, except those as specified in Section 38 of the Municipal Act. He contends that as these workmen have been appointed u/s 39 of the Municipal Act, the State Government cannot annul the appointments made by the Municipal Council. He further contends that even if the service of the employee, u/s 39 of the Municipal Act, is to be terminated, the State Government, u/s 41 of the Municipal Act, is mandated to give the concerned officer and/or servant the opportunity of being heard. For this contention, he relies upon a judgment of this Court in the case of Hans Raj Sachdeva, Secretary Municipal Committee v. The State of Punjab and Ors. 1975 LAB.I.C. 478. He contends that order relieving the workman from service requires one month's notice to be given, which has not been given in the present case. He relies upon the judgment of this Court in the case of Kaur Chand v. State of Punjab and Ors. 1986 (1) PLR 592. He further contends that as the workman has been put as a probationer, he can ordinarily be removed from service in accordance with the terms and conditions of the contract of employment but in case the employee challenges the termination, the Court can examine whether there was some material, on the basis of which the employer could form an opinion that the employee is not fit to be continued in service. He submits that his unfitness or his ability to perform his duties has not been questioned and, therefore, it cannot be said that his services have been terminated in accordance with the terms of contract. He further submits that even if the services of the workman were terminated in accordance with the conditions incorporated in the letter of appointment, which authorizes the employer to terminate the services of the workman during the period of probation and if the workman completes 240 days of service with the employer, the same will have to be treated as retrenchment within the meaning of Section 2 (oo) of the Act and, therefore, would be entitled to protection of Section 25-F of the Act.

For this submission, he relies upon a Division Bench judgment of this Court in the case of Hans Raj v. Presiding Officer, Labour Court, Patiala and Ors. (1996-3) P.L.R. 701. He, therefore, on the basis of these submissions contends that the award passed by the Labour Court is in accordance with law and therefore, does not call for any interference by this Court while exercising its jurisdiction under Article 226 of the Constitution of India. Counsel for the Respondents further contends that the workmen are also entitled to the last pay drawn as per the provisions of Section 17B of the Industrial Disputes Act.

13. I have heard counsel for the parties and have gone through the records of the case.

14. The first question, which needs to be determined, is "whether the appointments of the workmen were on contract basis or on regular basis ?" The appointment letter dated 2nd January, 1996 (Annexure P- " 1), contents whereof have been reproduced above, clearly indicates that the appointments of the workmen were on contract basis as is apparent from the subject itself. The application, which was moved by the workmen, was also for appointment on contract basis. The appointment letter itself specified that the appointment was on contract basis for a period of one year at a fixed rate of salary for Rs. 1,000 per month. It further states that the appointment was on purely temporary basis, which could be terminated at any time without assigning any reason. These conditions, as specified in the appointment letter, go beyond doubt to show that the appointment was on contract basis. Merely because it has been mentioned that the appointment would be on contract basis for a probation period of one year does not change the nature of appointment. It can, by no stretch of imagination, be termed as appointment on regular basis, as has been argued by the counsel for Respondents-workmen. Had it been on regular basis, the workman would have been granted the regular pay scales but nothing of this nature has come to light. Even an effort on the part of the Municipal Council, Khanna to grant the workmen the regular pay scales,--vide its resolution dated 28th February, 1996 (Annexure P-2) was not accepted by the Government and the decision of the Government dated 20th June, 1997 (Annexure P-3) clearly brings it out. The Government had,--vide this order rejected the proposal of the Municipal Council, Khanna to appoint the workmen in regular pay scales. The Government further directed the Municipal Council, Khanna, to fill up the posts on regular basis as per Rules and Government Instructions after following the prescribed procedure. All this go to show that the appointment of the workmen was purely on contract basis and it is held accordingly. It would not be out of way to mention here that the appointment letters were issued to the workmen on 2nd January, 1996 whereas the resolution approving the appointment of the workmen on contract basis for a period of one year was passed by the Municipal Council, Khanna only on 28th February, 1996 (Annexure P-2). This also does not reflect well with regard to the working of the Municipal Council and the appointment of the workmen.

15. On rejection of the proposal of the Municipal Council, Khanna, to appoint the workmen in regular pay scales,--vide order dated 20th June, 1997 and a direction for filling up the posts on regular basis as per Rules and Government Instructions after following the prescribed procedure, the Municipal Council, Khanna,--vide its resolution dated 21st July, 1997 (Annexure P-4), constituted a Committee for filling up the posts and it further resolved that the contract period of the Respondents-workmen be extended up to 31st December, 1997 so that the work of the Municipal Council does not suffer. The appointment, therefore, as is apparent from this resolution as well, was a contractual appointment, which

was extended up to 31st December, 1997. The right, therefore, if any of the workmen, was to continue in service on contract basis up to 31st December, 1997 and not beyond that unless extended.

16. However, the Director, Local Government, Punjab,--vide his letter dated 22nd August, 1997, directed the Municipal Council to relieve the workmen with immediate effect. The Municipal Council proceeded with selection process and fixed 8th September, 1997 for interview to the posts i.e. six Clerk and one Bill Distributor. Before the interview could be held, a telephonic communication was received by the Executive Officer, Municipal Council, Khanna dated 5th September, 1997 to cancel the interviews fixed for 8th September, 1997 with immediate effect. This decision of the Government was conveyed to the President, Municipal Council, Khanna by the Executive Officer,-- vide his communication dated 5th September, 1997 itself. Without complying with the communication, the interviews were held as fixed and the Municipal Council proceeded with the selection process. The sub-committee, as constituted,--vide resolution dated 21st July, 1997 (Annexure P-4), proceeded to recommend the appointment of the workmen on the posts, which were to be filled up and,--vide its resolution dated 15th September, 1997, the Municipal Council, Khanna approved the recommendation of the sub-committee. Certain objections were raised, which finds mention in the resolution itself (Annexure P-4).

17. This resolution dated 15th September, 1997 was forwarded to the Government for approval. The Regional Deputy Director, Local Government, Ludhiana stayed the resolution and the said stay was communicated to the Executive Officer, Municipal Council, Khanna,-- vide letter dated 19th September, 1997. It was specified therein that the appointments, which were proposed to be made, were not in accordance with the Instructions issued,--vide letter dated 29th September, 1996. It was also mentioned that no type test was conducted. As the proposed appointments made by the Municipal Council were not as per the directions, rules and instructions of the Government so the decision made in the said resolution was ordered to be stayed.-Despite of this communication, the President of the Municipal Council proceeded to issue appointment letters on 19th September, 1997. However, the Executive Officer, Municipal Council, Khanna, in compliance with the decision of the Government dated 19th September, 1997, passed an order dated 22nd September, 1997 issuing directions therein that the appointment orders dated 19th September, 1997 be not implemented. Vide a separate order of even date, the Executive Officer, in compliance to the earlier Government decision dated 22nd August, 1997 directing the Municipal Council to relieve the workmen with immediate effect, relieved the Respondents-workmen from duty.

18. The sequence of events clearly show that there was a direction by the Government to relieve the workmen with immediate effect,--vide its decision dated 22nd August, 1997, which was not complied with by the Municipal Council. Thereafter, there was a clear direction by the Regional Deputy Director, Ludhiana

to postpone the interview fixed for 8th September, 1997, which again, despite communication dated 5th September, 1997 by the Executive Officer to the President of Municipal Council, was violated. Thereafter, the resolution dated 15th September, 1997 passed by the Municipal Council approving the recommendations of the sub-committee was stayed by the Regional Deputy Director, Local Government, Ludhiana on 19th September, 1997 but still appointment letters were issued on 19th September, 1997. Cogent and justifiable reasons have been given by the Government while staying the resolution dated 15th September, 1997,--vide its order dated 19th September, 1997. Faced with this situation, the Executive Officer, in compliance with the orders passed by the Government dated 19th September, 1997 staying the resolution dated 15th September, 1997 of the Municipal Council, directed that the effect of the appointment letters issued to the workmen be not given and accordingly, as per the earlier decision of the Government dated 22nd August, 1997, relieved the workmen with immediate effect. On each stage, there has been defiance on the part of the Municipal Council, Khanna. Sections 233, 235 and 236 of the Punjab Municipal Act, 1911 (hereinafter referred to as "Municipal Act") give ample powers to the Government and its authorized officials, who can suspend, stay or rescind any resolution or order of the committee passed under the Municipal Act or the rules framed thereunder. The power, therefore, exercised by the competent authority under the Municipal Act was required to be complied with by the Municipal Council, Khanna but despite communication of the decision of the Government, the Municipal Council violated the same. The claim made by the workmen on the basis of the decision taken by the Municipal Council, Khanna in violation of the provisions of the Municipal Act, cannot confer any right on them.

19. Counsel for the Respondents has placed reliance upon Section 39 of the Municipal Act to contend that the State Government has no powers for employment of other officers and servants, which are not covered u/s 38 of the Municipal Act. He further contends that it is the exclusive domain of the Municipal Council and, therefore, appointments made u/s 39 of the Municipal Act cannot be annulled by the State Government and in any case, relying upon Section 41 of the Municipal Act, he contends that it is mandated that the State Government should give the concerned officer or servant the opportunity of being heard. For this, he has relied upon the Full Bench judgment of this Court in the case of Hans Raj Sachdeva (supra). This contention of the counsel for the Respondents cannot be sustained as the appointments, even if taken to be u/s 39 of the Municipal Act, were not in consonance with the decision of the Government dated 20th June, 1997 (Annexure P-3) where the Municipal Council was directed to fill up the posts on regular basis as per rules and Government instructions. The decision of the Government dated 19th September, 1997 staying the resolution of the Municipal Council dated 15th September, 1997 clearly gives the reasons for staying the same. The type test was not held and the proposed appointments were not as per the instructions dated 29th September, 1996, which were issued by the Government as per the regulations and rules of the Government

governing the appointments. The provisions, as contained in Section 41 of the Municipal Act, would be applicable where the resolution has been given effect to. In the present case, before the said resolution dated 15th September, 1997 could be given effect to, the same was stayed,--vide communication dated 19th September, 1997. The appointment letters dated 19th September, 1997 issued by the President of the Municipal Council were issued in violation of the statute and the same were also not given effect to. Therefore, the judgment relied upon by the counsel for the Respondent-workmen in the case of Hans Raj Sachdeva (supra) would have no application.

20. Having concluded that the initial appointment of the workmen being on contract basis and in the absence of appointment of the workmen on regular basis, the services of the workmen were governed by the provisions of their appointment letters. The initial appointment of the workmen was on contract basis, which continued as such till the date of their termination. The maximum which the workmen can be held entitled to for continuing in service was up to 31st December, 1997, which right was granted to them as per the resolution dated 21st July, 1997 (Annexure P-4) passed by the Municipal Council, Khanna. It would not be out of way to mention here that while extending the contract period of the workmen upto 31st December, 1997, the only rider, which could curtail the extended period of contract, was in case the vacancies, which were to be filled on regular basis, are filled before the expiry of the said contract period. That having not been done the workmen were entitled to continue in service till 31st December, 1997. Their services having been terminated on 22nd September, 1997, the same cannot be said to be in consonance with the resolution dated 21st July, 1997,--vide which their period of contract was extended upto 31st December, 1997. They would, therefore, be entitled to the wages for the unexpired period of contract.

21. As has been held above, the appointment of the workmen was on contract basis. Although the services of the workmen were terminated not in consonance with the provisions of the contract but that would not entitle them for reinstatement on the posts, which were held by them. There is no dispute that the posts, on which the workmen have been ordered to be reinstated by the impugned award dated 4th May, 2001 passed by the Labour Court, Ludhiana, are public posts. As the appointment of the workmen were not in accordance with the statutory Rules governing the service, the workmen cannot be ordered to be reinstated in the light of the judgments passed by the Hon"ble Supreme Court, reliance whereof has been made by the counsel for the Petitioner i.e. Ghaziabad Development Authority and Anr. v. Ashok Kumar and another, (supra), Mahboob Deepak v. Nagar Panchayat, Gajraula, (supra) and M. P. Administration v. Tribhuwan, (supra), State of M. P. and Ors. v. Lalit Kumar Verma (supra). Since the appointment of the workmen was purely on contract basis, non-compliance thereof would only entitle them to compensation for the unexpired period of their contract.

22. The only question, which now needs to be answered, is whether the workmen would be entitled to the benefit of Section 17-B of the Industrial Disputes Act ?" There is no dispute that the impugned award dated 4th May, 2001 (Annexure P-5) passed by the Labour Court, Ludhiana, was passed in favour of the workmen. The proceedings are pending before this Court. The workmen, therefore, would be entitled to the benefit of Section 17-B of the Industrial Disputes Act from the date the workmen filed affidavit in this Court in accordance with the requirement of Section 17-B of the Industrial Disputes Act.

23. In view of the above, the impugned award dated 4th May, 2001 (Annexure P-5) passed by the Labour Court, Ludhiana, cannot be sustained and is hereby set aside.

24. A direction is issued to the Petitioner-Municipal Council to release the wages to the workmen for the unexpired period of contract and the amount of wages as per Section 17-B of the Industrial Disputes Act, as held above, within a period of two month's from the date of receipt of a certified copy of this order.

25. Writ petitions stand disposed of accordingly.