
(2013) 02 P&H CK 0189
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 20788 of 2011

Parvinder Singh

APPELLANT

Vs

The Pepsu Road Transport Corporation and Another

RESPONDENT

Date of Decision : 01-02-2013

Acts Referred:

Citation : (2013) 2 SCT 698

Hon'ble Judges : Rakesh Kumar Garg, J

Bench : Single Bench

Advocate : Sarjit Singh and Ms. Ishrat Kaur Pannu, for the Appellant; Anupam Singla, for the Respondent

Final Decision : Allowed

Judgement

Rakesh Kumar Garg, J.—As per the averments made in the instant writ petition, the petitioner had joined the service of the respondent-Corporation as a Conductor on 4.12.1971. The services of the petitioner were illegally terminated on 05.10.1995. Aggrieved from the aforesaid termination, the petitioner had raised an industrial disputes and the matter was referred to the Labour Court, Patiala for adjudication. The Labour Court vide its award dated 15.12.2004 held that the termination of the services of the petitioner was bad and ordered reinstatement of the petitioner with continuity of the service alongwith 50% back wages.

2. The concluding para of the Labour Court Award reads thus:-

The termination of the services of the workman is illegal. The workman is entitled to reinstatement along with continuity of service. The workman has contended that he remained unemployed from the date of termination of his services. The management has failed to prove that the workman was in any gainful employment. Therefore, it is clear that it has not been established on the file that the workman did not remain unemployed after the termination of his services. However, the workman has raised the dispute regarding the termination

of his services after a long delay. The workman has not given any explanation for the delay. Therefore, keeping the same in view it is ordered that the workman would be entitled to 50% of the back-wages from the date of demand notice i.e. 9.8.1999 on the basis of the last pay drawn by him. The workman shall present himself for joining duty within 30 days of the publication of this award. If the management does not make the payment of the above amount within six months of the publication of the award, then it shall pay simple interest at the rate of 6% from today to the workman.

3. Thereafter, an understanding was reached between the parties and according to that, the petitioner was paid back-wages to the extent of 25% and he was ordered to be reinstated with continuity of service on 08.02.2005. The petitioner had retired from service on 28.02.2010.

4. The grievance now before this Court in this writ petition is that after his reinstatement he has not been given the continuity of service as he has been denied the annual increments and his pay has neither been fixed correctly nor he has been given arrears to which he was entitled to on the basis of continuity of service after fixing his pay notionally. A further grievance has been raised to the effect that after fixing his pay notionally after giving the benefits of increments petitioner is also entitled to the revision and correct fixation of his pensionary benefits.

5. However, the claim of the petitioner is being denied on the basis of Regulation 13 of the Amended PRTC (condition of appointment and service Regulation 1981) (in short Service Regulation) on the ground that an employee can get increment during service and not for the period for which he remained out of service. Since the petitioner had remained out of service from 01.10.1992 to 2005, therefore, he is not entitled to any increment during that period.

6. I have heard the counsel for the parties and gone through the documents placed on record.

7. At this stage, it will be relevant to notice the judgment of this Court in *Sadhu Ram Gupta Vs. State of Punjab* wherein it has been observed that once an employee is held to be entitled to reinstatement that would vest in him the right of continuity in service or in other words, right to all benefits is as if his services had never been terminated and in such circumstances such an employee is notionally entitled to increments which fell due to him during the period of his absence from service on account of his dismissal and is also entitled to re-computation of his salary on the basis of annual increments.

8. A similar view has been taken by the division Bench of this Court in a subsequent judgment reported as *The Secretary to Govt., of Punjab v. Vinod Kumar and another*, 2009 (1) SCT 16 wherein it has been held that once the termination of a workman is held to be illegal and he has been ordered to be reinstated with continuity of service and back wages, the benefits which accrued to him as part of service, cannot be denied on the ground that he was not

actually working during termination period.

9. Learned counsel appearing on behalf of the respondents could not dispute the aforesaid settled proposition of law.

10. No other point was conversed.

11. In view of the aforesaid facts and circumstances of the case and the law enunciated in the aforesaid judgment, the petitioner is notionally entitled to the grant of all benefits of annual increments during the period of his absence from service on account of his dismissal and thereafter, refixation of his pay and payment of such arrears and consequential revision in retrial benefits accordingly. Thus, this writ petition is allowed.

12. The respondent-PRTC is directed to re-fix the pay of the petitioner after giving him the benefit of annual increments notionally for the period he remained out of service and thereafter, re-compute his retrial benefits and pay the arrears, if any within three months from today. In case, the respondent-PRTC fails to make the aforesaid payment, the respondent-PRTC shall be liable to pay interest on such amount @ 9% from the date it became due till its realization.