

(1997) 12 P&H CK 0020
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 1862 of 1989

Patiala Central Co-operative Bank Ltd.	APPELLANT
Vs	
Mehar Chand and Another	RESPONDENT

Date of Decision : 02-12-1997

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (1998) 1 LLJ 1142 : (1998) 118 PLR 499

Hon'ble Judges : T.H.B. Chalapathi, J;H.S. Brar, J

Bench : Division Bench

Advocate : P.S. Patwalia, for the Appellant; Vikas Singh, for the Respondent

Final Decision : Dismissed

Judgement

T.H.B. Chalapathi, J.—This Letters patent appeal arises out of the judgment of the learned Single Judge in Civil Writ Petition No. 3539 of 1981 dated September 18, 1989.

2. The writ petition was filed by one Mehar Chand who was working as a Gunman in the Patiala Central Co-operative Bank Limited, Patiala against the award passed by the Labour Court, Patiala dated March 11, 1981. When the workman was working as a Gunman in the ap pellant Bank, his services were terminated on December 25, 1976. Thereafter he raised an industrial dispute which was referred to the La bour Court for adjudication. The Labour Court on the basis of the evidence on record came to the conclusion that termination of workman was not justified and was not in order. Accordingly it directed the payment of compensation in terms of provisions of Section 25-F of the In dustrial Disputes Act. As the Labour Court de nied the relief of reinstatement with back wages, the workman filed the writ petition. The learned single Judge in the impugned judgment directed the reinstatement of the petitioner with full back wages and allowances. Aggrieved by the same the appellant Bank filed the present ap peal.

3. The learned Counsel for the appellant argued that the termination of the

workman was justified and that the workman was absent continuously for a long period and therefore he was not entitled to be reinstated and the learned Single Judge erred in ordering his reinstatement with full back wages. Admittedly, the Labour Court recorded a finding on the basis of the material on record that the order of termination of services of the workman was not justified and was not in order. That is a finding of fact based on evidence. The learned single Judge did not find any evidence to come to a different conclusion. In fact, the appellant-bank did not file any reply in the writ petition. There was no challenge to the said finding recorded by the Labour Court. When the Labour Court gave a specific finding that the termination of the workman was not justified and that finding was confirmed by the learned Single Judge, we do not see any reason to disturb the said finding. While exercising the extraordinary writ jurisdiction conferred on this Court under Article 226 of the Constitution of India, this Court will not go into the question of fact. When once the termination was held to be unjustified the necessary corollary is that the workman is entitled to be reinstated with full back wages. That is what has been done by the learned single Judge. As held by this Court in *Prem Singh v. Presiding Officer, Industrial Tribunal and Anr.* 1990 (4) SLR 375 when once reinstatement has been ordered by the Labour Court and the termination of service is set aside the relief of grant of back wages to the workman shall follow automatically.

Learned Counsel for the appellant tried to argue that the workman has been gainfully employed when he was out of service, but no evidence has been let in by the appellant either before the Labour Court or before the learned single Judge. In fact, we adjourned the matter to enable the appellant to place on record any material to show that the workman was gainfully employed when he was out of service. Even after granting an adjournment, the appellant Bank failed to place any material even before us to show that the workman was gainfully employed. In these circumstances, we are of the opinion that the appeal deserves to be dismissed. 4. The result is, the appeal fails and is, accordingly, dismissed, however, without costs.