**(1995) 11 P&H CK 0037**

**In the Punjab And Haryana At Chandigarh**

**Case No :** C.W.P. No. 14092 of 1992

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| Punjab State Electricity Board | APPELLANT |
| Vs | |
| Presiding Officer, Labour Court and Another | RESPONDENT |

**Date of Decision :** 01-11-1995

**Acts Referred:**
Industrial Disputes Act, 1947 — Section 25F

**Citation :** (1997) 3 LLJ 559 : (1996) 112 PLR 307

**Hon'ble Judges :** N.K. Sodhi, J

**Bench :** Single Bench

**Advocate :** Sarup Chand Goyal and S.S. Kanwar, for the Appellant; Nemo, for the Respondent

**Final Decision :** Allowed

## Judgement

N.K. Sodhi, J.—Sukhdev Kumar respondent (the workman) was employed as a daily wager in RE (Rural Electrification) Sub Disivion, Jalalabad West, under RE Division, Ferozepur Cantt. in October, 1988. Job of giving tubewell connections to the farmers was being executed by the RE organisation of the petitioner Board and there were ten such divisions in the State. Some time in the year 1989 the Board took a policy decision to transfer this work to the Distribution Divisions as a result of which six RE divisions became surplus and were abolished. The services of a large number of workmen including the respondent were consequently terminated. On August 25, 1989, a notice of termination of service on account of cessation of work was given to the workman in terms of Section 25-F of the Industrial Disputes Act, 1947 (for short the Act). By that time he had put in 322 days of service, He was offered one month''s wages in lieu of notice and 15 days wages as retrenchment compensation for the service that he had rendered. Though he was a daily wager he was being paid on monthly basis for the days on which he actually worked and his average monthly wages came to Rs. 606/- as held by the Labour Court. The termination of services of the workman gave rise to an industrial dispute and the same was referred for adjudication to the Presiding Officer, Labour Court, Bhatinda. The Labour Court found that the workman had been offered Rs. 303/-only as retrenchment compensation though he should have been paid a sum of Rs. 349.61 ps as compensation. Since the compensation paid was short of the amount that was actually due to him his retrenchment was held to be neither justified nor in order. He was thus ordered to be reinstated with continuity of service and full back wages with effect from the date of his demand notice u/s 2(A) of the Act. It is this award of the Labour Court that is now under challenge by the Punjab State Electricity Board in this petition filed by it under Article 226 of the Constitution.

2. The only argument of the learned counsel for the petitioner is that the Labour Court was not justified in holding that the amount of retrenchment compensation paid to the workman was less than what was due to him under the provisions of Section 25-F of the Act, There is merit in this contention. According to Section 25-F(b) of the Act, a workman has to be paid at the time of retrenchment, compensation equivalent to fifteen days'' average pay for every, completed year of continuous service or any part thereof in excess of six months. According to the averments made by the workman in his statement of claim, he was drawing a monthly salary of Rs. 606/- only when he was retrenched. He has been paid Rs. 303/- as retrenchment compensation as found by the Labour Court. It is not understandable as to how the Labour Court worked out Rs. 349.61 ps. as retrenchment compensation payable to him. He multiplied Rs. 606/- with 15 and divided the amount by 26. This is not the formula for working out retrenchment compensation in terms of Section 25-F(b) of the Act. There was thus no shortfall in the payment of retrenchment compensation to the workman and his retrenchment was valid. Even if one were to assume that there was a marginal shortfall in the payment of compensation, that by itself in the circumstances of the case would not make the retrenchment invalid. Undoubtedly Section 25-F(b) of the Act is a mandatory provision and it will have to be strictly construed but the enforcement cannot be carried to unreasonable limits particularly in border line cases where there is a marginal shortfall due to some bona fide error in calculation by the management. Moreover, in the present case the workman never raised any objection at the time of receiving the amount from the Board and the same was raised only for the first time before the Labour Court.

3. In the result, the petition is allowed and the impugned award Annexure P-1 quashed leaving the parties to bear their own costs.

 