

(2012) 04 P&H CK 0004
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 489 of 2012

Punjab Water Resources Management and Development
Corporation Ltd. and Another

APPELLANT

Vs

Narayan Bahadur and Another

RESPONDENT

Date of Decision : 03-04-2012

Acts Referred:

Industrial Disputes Act, 1947 — Section 17B, 25F

Citation : (2012) 134 FLR 823

Hon'ble Judges : Tej Pratap Singh Mann, J; Satish K. Mittal, J

Bench : Division Bench

Advocate : Amit Singh, for the Appellant;

Final Decision : Dismissed

Judgement

Satish K. Mittal, J.—Punjab Water Resources Management and Development Corporation Limited; and its Divisional Engineer, Operation & Maintenance Division, have filed the instant Letters Patent Appeal against the judgment dated 20.4.2011, passed by the learned Single Judge, whereby the writ petition (Civil Writ Petition No. 1180 of 1992) filed by the appellants, challenging the award dated 19.7.1991 (Annexure P-4) passed by the Presiding Officer, Labour Court, Gurdaspur, re-instating respondent No. 1-workman with continuity of service and full back wages, was disposed of with modification in the award dated 19.7.1991 to the extent that instead of full back wages, 50% back wages were granted to the respondent-workman.

Though there is a delay of 65 days in filing the appeal and the appellants have filed application (CM No. 1302-LPA of 2012) for condoning the delay, yet we have heard learned Counsel for the appellants on merits, and gone through the order, passed by the learned Single Judge, as well as the award, passed by the Labour Court.

As far as the issue of the illegal termination of the respondent-workman is

concerned, it has not been disputed before us that he had completed 240 days of service in twelve calendar months preceding the date of his termination. It is also admitted position that before terminating the services of the respondent-workman, provision of section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act"), was not complied with, which was mandatory in nature. In view of these admitted facts, learned Counsel for the appellants could not assail the findings of the Labour Court as well as the learned Single Judge with regard to illegal termination of the services of the respondent-workman, who was ordered to be re-instated by the Labour Court with full back wages.

2. The second portion of the order passed by the Labour Court was modified by the learned Single Judge and instead of full back wages, 50% back wages were granted to the respondent-workman. This modification was made by the learned Single Judge, while relying upon the decision of the Hon''ble Supreme Court in Allahabad Jal Sansthan Vs. Daya Shankar Rai and Another, . Learned Counsel for the appellants, while referring to the decision of the Hon''ble Supreme Court in Sr. Supdt. Telegraph (Traffic) Bhopal v. Santosh Kumar Seal and others 2010 (125) FLR 736 (SC), argued that instead of 50% back wages, the respondent-workman, who had hardly worked for one and half years, should be awarded suitable compensation. In the said judgment, instead of re-instating the workman with back wages, the Hon''ble Supreme Court awarded him monetary compensation, because the back wages period in that case was about 25 years, but that is not the position in the instant case. In this case, services of the respondent-workman were illegally terminated in the year 1987 and the Labour Court passed the award in the year 1991, ordering the re-instatement of the respondent-workman with full back wages. During the pendency of the writ petition, in spite of the order passed u/s 17B of the Act, the appellants did not re-instate the respondent-workman and ultimately, the writ petition was dismissed with the aforesaid modification in the year 2011. Thus, we do not find any ground to interfere in the second part of the judgment awarding 50% back wages to the respondent-workman, which in our opinion is reasonable and justified in the facts and circumstances of the case.

No merit. Dismissed.