
(2017) 01 P&H CK 0021
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 19035 of 2009 (O and M)

Rajesh Kumar

APPELLANT

Vs

Presiding Officer, Labour Court, Patiala

RESPONDENT

Date of Decision : 18-01-2017

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2017) LabLR 270

Hon'ble Judges : Mr. Rajiv Narain Raina, J.

Bench : Single Bench

Advocate : Ms. Sukhmani Tiwana, Advocate, for the Petitioner; Mr. K.S. Kang, Advocate, for the Respondents No. 2 and 3

Final Decision : Partly Allowed

Judgement

Mr. Rajiv Narain Raina, J. - The petitioner has approached this Court against the award of the Presiding Officer, Labour Court, Patiala dated February 01, 2008.

2. There is dispute between the parties as to whether the petitioner worked as a Beldar or as a Pump Driver/Pump Attendant/Operator. The muster roll suggests that he was Beldar.

3. Mr. Kang appearing for the management points out to the muster roll where the workman has signed acknowledging that he is a Beldar. The period of employment is from August 02, 1994 and the termination took place on June 17, 1995. There is also a dispute regarding the date of exit. The management says that the workman was last on duty on April 30, 1995.

4. Be that as it may, by taking into account either of the two dates of entry and exit the workman had put in 240 days of service and was, therefore, protected by the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 (for short "the Act"). Admittedly, neither notice nor retrenchment compensation was paid to the workman at the time of oral termination. He raised a dispute on June 29, 1995 by serving a demand notice on the management and to the

Labour Inspector of the area. The conciliation proceedings failed and that is how the matter was referred to the Labour Court for adjudication.

5. The Labour Court has returned a finding that the termination took place in violation of provisions of Section 25-F of the Act and has rightly held that the termination is illegal and void for breach of procedure of retrenchment. However, the Labour Court has exercised its discretion in denying reinstatement but awarding compensation in lieu of reinstatement in a sum of Rs. 5,000/-.

6. The workman is before the Court claiming reinstatement and full back wages. Regarding claim for reinstatement the period is too brief to consider this relief and, therefore, falls within the teeth of case law one of which is of the Supreme Court and can be noticed in Assistant Engineer, Rajasthan Dev. Corp. & Anr v. Gitam Singh, 2013 STPL(Web) 84 SC. There is no necessity to multiply the rulings except to notice that in BSNL v. Man Singh, (2012) 1 SCC 558 the Supreme Court denied reinstatement but ordered compensation to be paid in lieu of reinstatement in a sum of Rs. 2 lacs for service rendered for a little over a year. In Gitam Singh the Supreme Court awarded Rs. 50,000/- for 240 days of service but that was in 2013 and to further mould the relief by adjusting it to passing time and rising cost of living index, this Court while approving the work of the Labour Court in denying reinstatement deems it appropriate to serve the ends of justice to modify the award and enhance the compensation to Rs. 1 lac in lieu of reinstatement is a just balance of all the judicial dispensations including by keeping in view the Division Bench judgment of this Court in Municipal Council, Dina Nagar v. Presiding Officer, Labour Court, Gurdaspur and another, 2015 (1) RSJ 765 in which a rough rule has been laid down that in case of menial employment for every year of service Rs. 1 lac is adequate compensation.

7. Having regard to the past precedents, this petition is partially allowed by modifying the award of the Labour Court as above. The respondents would pay a sum of Rs. 1 lac to the workman within one month from today. It may be noted that in terms of the previous order, Mr. Gurpal Singh Chahal, Commissioner, Municipal Corporation, Patiala is present in Court. This order has been pronounced before him and he has accepted it as fair and just dispensation in the changed times as the amount awarded by the labour court is too meagre a sum. He assures the Court that the payment will be made within one month from today. Court is informed that the post of arrayed 3rd respondent no longer exists and therefore the question of securing his presence today does not arise.