

(2015) 04 P&H CK 0381

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 2126 of 2014

Randhir Singh

APPELLANT

Vs

Presiding Officer, Industrial Tribunal and Others

RESPONDENT

Date of Decision : 21-04-2015

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(1)(c), 25-F

Citation : (2015) 3 SCT 678

Hon'ble Judges : S.S. Saron, J; Ramendra Jain, J

Bench : Division Bench

Advocate : Amarjit Singh, for the Appellant

Final Decision : Dismissed

Judgement

S.S. Saron, J—The appellant was appointed as a Survey "Khalasi" on daily wages basis and work-Munshi on monthly fixed rates on work-authority and Work charge basis from 01.01.1979 to 31.07.80 with breaks in service, i.e. from (i) 13.01.1979 to 31.01.1979 and 17.02.1979 to 16.05.1979 as "Khalasi" on basis. Thereafter as work munshi basis from (ii) 17.05.1979 to 16.08.1979 (iii) 20.08.1979 to 19.11.1979 (iv) 2.0.11.1979 to 18.02.1980 (v) 20.02.1980 to 19.05.1980 and (vi) 21.05.1980 to 31.07.1980. The service of the appellant from 17.05.1979 to 31.07.1980 was a continuous. The appellant raised an Industrial dispute which was referred by the State Government in terms of Section 10(1)(c) of the Industrial Disputes Act, 1947 ("Act" for short) to the Labour Court, Amritsar. The reference made was to the following effect:

"Whether termination of the services of Sh. Randhir workman is justified and in order? If not, to what relief/exact amount of compensation is he entitled?"

The Labour Court after considering the evidence that was led held that the termination of the services was justified and in order. Accordingly, the reference was answered against the appellant vide award dated 18.01.1990 (Annexure PI).

2. The appellant aggrieved against the order of the Labour Court filed Civil Writ

Petition No. 3723 of 1991 in this Court. At the time of hearing, no one appeared for the appellant before the learned Single Judge. In any case the learned Single Judge vide order dated 09.05.2014 held that the appellant had continuous service of more than 1 Vz years and his termination was without following the procedure provided for by Section 25-F of the Act. However, instead of ordering re-instatement in service, compensation of Rs. 20,000/- along with interest of 9% per annum from the date of award till date of payment was awarded for illegal retrenchment. The writ, petition seeking re-instatement was declined.

3. The appellant aggrieved against the said order dated 09.05.2014 filed Letters Patent Appeal No. 1089 of 2014 in this Court, which was disposed of on 08.08.2014. The Letters Patent Bench granted liberty to the appellant to file an application before the learned Single Judge for recalling the order dated 09.05.2014. The LPA was accordingly dismissed with the aforesaid liberty.

4. The appellant, thereafter, filed CM-10333-2014 for recalling the order dated 09.05.2014. The learned Single Judge held that the appellant had worked for 1 1/2 years and that too 34 years before the case was taken up by this Court. It was held that the question of re-instatement was not feasible, considering the nature of engagement as fragile and for a short period of 1-1/2 years. Relying on the judgment of the Supreme Court in B.S.N.L. Vs. Bhurumal, (2014) 2 ABR 235 : (2014) 1 AD 467 : AIR 2014 SC 1188 : (2014) 140 FLR 901 : (2013) 15 JT 611 : (2014) LabIC 1093 : (2014) 1 LLJ 260 : (2013) 15 SCALE 131 : (2014) 3 SCJ 195 : (2014) 3 SCT 49 : (2014) 1 SLJ 293 , it was held that the compensation awarded was just and proper. Accordingly, the application for recall of the order dated 09.05.2014 was dismissed on 03.09.2014. The appellant aggrieved against the said order has filed the present Letters Patent Appeal seeking modification of the order dated 09.05.2014 by enhancing the amount of compensation and the order dated 03.09.2014 declining to recall the earlier order.

5. Learned counsel for the appellant has contended that compensation of Rs. 4,00,000/- is liable to be awarded to the appellant and the learned Single Judge has mis-read the judgment in BSNL v. Bhuntmal's case (supra) inasmuch as it has been observed that considering the case of a Lineman who was working on daily basis for nearly 14 years from 1987 to 2001 had been illegally terminated, the Court had awarded a sum of Rs. 3,00,000/- in lieu of compensation. It is submitted that in fact the lineman in the said case had worked for two years only. As such, the factual position of the said case was incorrectly appreciated. Therefore, according to learned counsel, compensation of Rs. 4,00,000/- is liable to be awarded to the appellant. A reference has also been made to the case of International Tractors Limited Hoshjaipur and another v. Presiding Officer, Labour Court, Jalandhar and another, 2011 (2) RSJ 653 (P & H) and Bharat Sanchar Nigam Ltd. Vs. Man Singh, (2012) 132 FLR 500 : (2012) 1 SCC 558 : (2012) 1 SLJ 199 : Bharat Sanchar Nigam Ltd. Vs. Man Singh, (2012) 132 FLR 500 : (2012) 1 SCC 558 : (2012) 1 SLJ 199 where the respondent workman was declined the relief of re-instatement but was held entitled to compensation of Rs.

2,00,000/- towards full and final payment of claim for re-instatement.

6. We have given our thoughtful consideration to the matter and perused the record.

7. The limited claim of the appellant in the present appeal is to the award of compensation. It may be noticed that in the judgments that have been referred to, compensation has been paid and awarded in the facts and circumstances of the said respective cases. The case law referred to by the learned counsel for the appellant does not lay down any ratio as regards the payment of compensation.

8. In the present case, as has already been noticed, the appellant had worked for various period with intermittent breaks. He has initially worked as a Survey "Khalasi" from 13.01.1979 to 30.01.1979 on daily basis. Thereafter, he worked as work-Munshi on work authority basis from 17.05.1979 to 31.07.1980 with breaks of four days, two days and one day respectively in the five engagements thereafter. The learned Single Judge, in the circumstances, held that the appellant was an employee who was working in the PWD office on temporary basis and he had worked for 1 1/2 years and that too 34 years back.

9. In BSNL v. Bhurumars case (supra) the case of the workman therein was that he had worked for 15 years and his termination had taken place more than 11 years earlier. The Hon"ble Supreme Court held that there was no direct evidence of working for 15 years and most of the documents related to two years service from 2001-2002. The period of time of working in the said case was 2001-2002 and in the present case is of the year 1979-1980, which is quite earlier to the period of 2001-2002. Besides, termination of the workman in the said case had taken place 11 years earlier. Whereas in the present case it has taken place 34 years earlier.

10. In International Tractor Ltd. Hoshiarpurs case (supra); the workman in the said case had worked with the management from 11.10.1996 to 01.07.1998. There was a serious dispute about his status as a workman. There was no record that he was a permanent employee. In the said circumstances, compensation of Rs. 4,00,000/- was held to be adequate instead of re-instatement. The period of working was during 1996 to 1998 and not as remote as in the present case.

11. In Bharat Sanchar Nigam Ltd. v. Mann Singh's case (supra), the respondent was a casual labourer during the year 1984-85. Due to non availability of work, his services were terminated in 1986 and in the facts and circumstances of the said case, Rs. 2,00,000/- was awarded as compensation to the workman.

12. In the present case, the learned Single Judge having awarded Rs. 20,000/- as compensation with interest of 9% from the date of award i.e. 18.01.1990 till date of payment would not call for any further enhancement keeping in view the fact that the service of the appellant was terminated on 31.07.1980 and the award came to be passed much later. Therefore, we find no ground to interfere with the impugned judgment and there is no merit in the Letters Patent Appeal

and the same is, accordingly, dismissed.