

(2006) 01 P&H CK 0105

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 412 of 1995 in Civil Writ Petition No. 3274 of 1994

Ranjit Singh

APPELLANT

Vs

The Presiding Officer, Labour Court and Another

RESPONDENT

Date of Decision : 16-01-2006

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2006) 3 LLJ 72 : (2006) 143 PLR 188

Hon'ble Judges : Kiran Anand Lall, J;H.S. Bedi, J

Bench : Division Bench

Advocate : Vinod Sharma, for the Appellant;

Final Decision : Allowed

Judgement

H.S. Bedi, J.—The facts leading to the filing of the present Letters Patent Appeal filed at the instance of the workman-appellant Ranjit Singh are as under:-

The appellant was appointed as a driver with the respondent Gidderbaha Co-operative Marketing-cum-Processing Society Ltd., Gidderbaha in the year 1971. His services were terminated on 25.10.1990 on the plea that the truck which he was driving had been sold and that his services had become redundant. He claimed a reference to the Labour Court and the Labour Court in its award dated 12.1.1994 held that his retrenchment from service was void abinitio being violative of Section 25-F of the Industrial Disputes Act, 1947 but as the truck in question had been sold, the Labour Court directed that a lump sum compensation for Rs. 50,000/- be paid to him. Two writ petitions were thereafter filed in this Court; one by the workman and the other by the employer. Both the writ petitions were dismissed by the learned Single Judge vide judgment dated 6.2.1995. The aforesaid judgment has been impugned in the present Letters Patent Appeal only by the workman.

2. We have heard learned Counsel for the appellant and gone through the record.

3. Concededly the truck in question had been sold and no new truck had been purchased. It has, however, been argued by Mr. Sharma, the learned Counsel for the appellant that the appropriate procedure for the respondent society was to have offered an alternative employment to the appellant as such work was available in the other branches of the co-operative society. He has also argued that in any case the lump sum compensation awarded to the appellant was wholly inadequate and did not represent even a fair living figure and has urged that this should be enhanced. In support of this argument, reliance has been placed on the judgment of the Hon"ble Supreme Court in O.P. Bhandari Vs. Indian Tourism Development Corpn. Ltd. and Others, .

4. We are clearly of the opinion that there was no obligation on the part of the respondent-co-operative society to have offered any alternative employment to the appellant. We also find that the observations of the Hon"ble Supreme Court do not apply to the case in hand. The Hon"ble Supreme Court observed as under:-

9. Counsel for the appellant having forcefully pressed the claim for reinstatement, has contended that in case the Court is disinclined to order reinstatement, the appellant ought to be awarded the full salary and allowances which would have accrued to him till the date of his superannuation which is more than 8 years away. We think it would be unreasonable to award 8 years"s salary and allowances, as lump sum compensation in lieu of reinstatement, We consider it unreasonable because:-

i) To do so would tantamount to paying to the appellant EVERY MONTH 20% OVER AND ABOVE what he would have earned if he was continued in service WITHOUT DOING ANY WORK as the lump sum payment of 8 year"s salary invested at 15% interest (it being the current rate of interest) would yield a monthly recurring amount equivalent to his current monthly salary "plus" 20%.

ii) To do so would be tantamount to paying to him his present salary etc. plus 20% more every month not only till his date of retirement but till his death (if he lives longer) and also to his heirs thereafter, IN PERPETUITY.

iii) Besides, the corpus of the lump sum amount so paid as compensation would remain with him intact.

Obvious it is, therefore, that the Court would be conferring a "bonanza" on him and not compensating him by accepting this formula. The submission, accordingly, deserves to be repelled unhesitatingly.

10. In our considered opinion, compensation equivalent to 3.33 year"s salary (including allowances as admissible) on the basis of the last pay and allowances drawn by the appellant would be a reasonable amount to award in lieu of reinstatement taking into account the following factors viz:-

1) The corpus if invested at the prevailing rate of interest (15%) will yield 50% of the annual salary and allowances. In other words every year he will get 50%

of what he would have earned by way of salary and allowances with four additional advantages:

- i) He will be getting this amount without working.
- ii) He can work somewhere else and can earn annually whatever he is worth over and above, getting 50% of the salary he would have earned.
- iii) If he had been reinstated he would have earned the salary only up to the date of superannuation (up to 55, 58 or 60 as the case may be) unless he died earlier. As against this 50% he would be getting annually he would get not only beyond the date of superannuation, for his lifetime (if he lives longer), but even his heirs would get it in perpetuity after his demise.
- iv) The corpus of lump sum compensation would remain intact, in any event.

No doubt he will not have the advantage of further promotion, but then what are his prospects, given in the present relationship? Besides, the chances of promotion can be set off against the risk of a departmental disciplinary proceeding. Factors (i), (ii), (iii) and (iv) are of such great significance that compensation on the basis of 50% of his annual salary and allowances is much more to his advantage. We are thus satisfied that compensation in lieu of reinstatement on the aforesaid basis more than reasonable. We, therefore, direct that:

1. The Respondent Corporation shall reinstate the appellant with full back wages (including usual allowances), or, at its opinion,

II. The respondent-corporation shall pay to the appellant: -

(1) Salary including usual allowances for the period commencing from the date of termination of his service under the impugned order till the date of payment of compensation equivalent to 3.33 year's salary including usual allowances to him.

xxx xxx xxx xxx 5. These observations pertain to an employee of the Indian Tourism Development Corporation which is an organization with huge resources. Such a procedure cannot be employed to a poor and petty co-operative society as that would crushingly burden its finances. We, however, do find that some increase in the amount of lump sum compensation is called for keeping in view the fact that the appellant was drawing almost Rs. 2,000/- a month at the time of his retrenchment and that the sum of Rs. 50,000/- awarded by the Labour Court would bring him Rs. 500/- per month @ 12% which was usual rate of interest available at that time.

6. We accordingly, direct that the total compensation payable to the appellant would be Rs. 75,000/-. We, however, make it clear that on the additional amount of Rs. 25,000/- no interest would be payable till today but the same shall be payable @ 6% per annum till the date of payment. The Appeal is allowed in the above terms.