
(2001) 02 P&H CK 0054
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2879 of 2000

Satnam Singh

APPELLANT

Vs

Presiding Officer, Labour Court, Gurdaspur

RESPONDENT

Date of Decision : 20-02-2001

Acts Referred:

Industrial Disputes Act, 1947 — Section 10, 11

Citation : (2001) 02 P&H CK 0054

Hon'ble Judges : S.S. Sudhalkar, J; Mehtab S. Gill, J

Bench : Division Bench

Advocate : Ms. Navneet Kaur, for the Appellant; Mr. Sukhbir Singh, for the Respondent

Judgement

S.S. Sudhalkar, J. (Oral)

1. This writ petition is filed by the workman challenging the award of the Labour Court dated 13.8.1998 (Copy Annexure P/2) to the ex-, tent that it denied full back wages to the petitioner.

2. In the impugned award, it has been mentioned by the Labour Court that the petitioner will get back wages for one year, prior to the date of his joining. The reason given by the Labour Court in this order is also found in the "Relief clause. It will be proper to quote the relevant paragraph. It is as under :-

" 15. Apropos the claim of back wages, the workman deposed that he remained unemployed since termination. He is married having two children. They are dependent upon his father. They have 2-1/2 acre land. He used to assist his father in the agriculture land. He has not got his name regd in the Employment Exchange. Therefore, it cannot be said that he has not been earning his livelihood for the subsistence of his family after termination of services. Nevertheless, in the circumstances of the case, I order for reinstatement of the workman with continuity of service and wages for one year prior to the date of joining by the workman as and when the award becomes enforceable at law."

3. We do not find that the Labour Court has arrived at a correct decision in dealing with the question of back wages. The petitioner used to assist his father. Of course, when he had no work as a dependent son he assisted his father and helped him. It does not mean that he has added to the income from the Agriculture which his father was already earning. This cannot be said to be a gainful employment.

4. Counsel for the respondent argued that the petitioner is a married person and has two minor children and it cannot be said that he was not earning anything for livelihood for subsistence of his family. We do not accept this argument. It was a forced idleness and only because the petitioner survived, it cannot be said that he was gainfully employed. Moreover, the principle laid down by the Full Bench of this Court in the case of Hart Palace, Ambala City v. The Presiding Officer, Labour Court and another reported as 1979 PLR 720 will apply to the present case.

5. In view of the above reason, we do not find any reason for not granting full back wages. We, of course, find that the back wages should have been awarded from the date of demand notice.

6. As a result, the award dated 13.8.1998, Annexure P/2, is modified qua back wages to the extent that the petitioner shall be entitled to full back wages from the date of demand notice.

This writ petition stands allowed to the above terms.

7. Writ petition allowed.