

(2016) 07 SHI CK 0103
In the High Court Of Himachal Pradesh
Case No : CWP No. 4395 of 2009.

State of H.P. - Petitioner @HASH Smt. Lajja Devi

Date of Decision : 12-07-2016

Acts Referred:

Industrial Disputes Act, 1947 — Section 25C, Section 25N

Citation : (2016) 3 CLR 902 : (2017) 152 FLR 57 : (2016) 4 LLJ 426

Hon'ble Judges : Sandeep Sharma, J.

Bench : Single Bench

Advocate : Mr. Rupinder Singh Thakur, Additional Advocate General with Mr. Rajat Chauhan, Law Officer, for the Petitioner; None, for the Respondent

Final Decision : Dismissed

Judgement

Mr. Sandeep Sharma, J. - The petitioner-State being aggrieved and dis-satisfied with the award dated 31.3.2009 passed by Labour Court-cum-Industrial Tribunal, Dharamshala, H.P. (for short "Labour Court") preferred the present writ petition under Article 226/227 of the Constitution of India and has prayed for following relief(s):-

"(a) That 50% wages awarded vide judgment passed by the Labour Court-cum-Industrial Tribunal in Reference No. 580/2008 decided on 31.3.2009, may kindly be quashed and set aside.

(b) The relevant record be called from Labour Court-cum-Industrial Tribunal for perusal

(c) The cost of petition may kindly be awarded to the petitioners.

(d) Any other writ, order or direction as this Hon'ble Court may deem, just and proper in the peculiar facts and circumstances of the case may kindly be passed."

2. Key facts, as emerged from the record, necessary for the adjudication of the present case are that the respondent-workman was engaged as daily waged Beldar in 1998 in Dharampur Division and as such she continued to work till 7th July, 2005.

3. Thereafter, authority specified by the Government (Chief Engineer, HPPWD (B&R) Central Zone, Mandi) vide letter dated 17.6.2005, exercising the powers of Specified Authority conferred on him vide Government Notification No. Sharm(A) 4-1/2005 dated 14.2.2005, accorded the permission for retrenchment of workmen specified in the application for permission dated 18.4.2005 for 997 Beldars, 35 Nos. Masons, 55 Nos. Blacksmiths on the principle of "First come Last Go".

4. Accordingly, in view of the aforesaid order passed by the Authority concerned, all the workmen including the present respondent were issued retrenchment notice along with three months wages. Respondents were also paid one month wages under clause-A of sub-section (1) of Section 25N of the Industrial Disputes Act, 1947 (for short "Act").. Accordingly, on July 8, 2005 services of the respondent-workman along with other workmen were terminated by giving her a retrenchment notice under Section 25N of the Act.

5. Respondent-workman feeling aggrieved and dissatisfied with the retrenchment order, issued by the present petitioner-State, raised Industrial Dispute, whereupon Labour Commissioner vide order dated 12.3.2009 made a reference to the Learned Presiding Judge, Labour Court to adjudicate the said dispute. Learned Labour Court, Dharamshala, upon this Reference No. 588/2008, vide award dated 31.3.2009 held the respondent-workman entitled to reinstatement in the same capacity in which she was working at the time of retrenchment of her services. Learned Tribunal below, apart from reinstatement, also held workman entitled to benefit of continuity of service from the date of her retrenchment i.e. July 8, 2005. Learned Labour Court, on the basis of material made available on record, also concluded that the respondent-workman is entitled to reinstatement with 50% back wages and continuity of service from the date of her unlawful retrenchment with further direction to the present petitioner to compute 50% back wages on the basis of the last drawn wage or the minimum wages permissible under the Minimum Wages Act, whichever is higher, till the date of reinstatement of the respondent-workman.

6. The present petitioner-State, being aggrieved and dissatisfied with the impugned award dated 31.3.2009, whereby present respondent-workman was held entitled to 50% back wages from the date of her un-lawful retrenchment i.e. 8th July, 2005, approached this Court by way of instant writ petition.

7. Careful perusal of the averments contained in the writ petition, especially relief claimed by the petitioner, suggests that the petitioner-State is only aggrieved to the extent whereby the respondent-workman has been held entitled to 50% back wages from the date of her retrenchment till its payment. Since no specific challenge, whatsoever, has been laid to that part of award wherein respondent-workman has been held entitled to the reinstatement with continuity of service from the date of her retrenchment, this Court need not look into that aspect of the matter. Moreover, petitioner-State has specifically stated in the writ petition that respondent-workman stand re-engaged w.e.f. 15.9.2009 by them and the

impugned award is being assailed to the extent of granting of 50% back wages in favour of the respondent-workman. Hence, in view of the position stated herein above, this Court while dealing with the present petition only needs to ascertain/ adjudicate that whether the award dated 31.3.2009 passed by the learned Labour Court holding respondent-workman entitled to 50% back wages from the date of retrenchment is sustainable or not in view of the grounds taken by the petitioner-State in the writ petition.

8. Close scrutiny of the grounds taken by the petitioner-Department, while challenging the impugned award, suggests that the petitioner-State is aggrieved with the order of the Tribunal below holding the respondent-workman entitled to 50% back wages from the date of her retrenchment. As per petitioner-State, implementation, if any, of the impugned award of the Tribunal would be caused administrative as well as financial hardship to the State of Himachal Pradesh because, if the benefit, granted by the learned Labour Court to the respondent-workman, is extended to her, all other similarly situate persons i.e. 1087 workmen would claim the same benefit and in that process huge financial hardship would cause to the State of Himachal Pradesh. Petitioner-State also stated that there will be approximately liability of Rs. seven crores, if the benefit, as extended in the case of the petitioner, is also claimed by the similarly situate person. The petitioner-State also submitted that learned Tribunal below, while awarding 50% back wages to the respondent-workman, has not applied uniform yardsticks and has acted on its own whims and fancies. It is specifically averred in the writ petition that in Reference No. 145/2002, titled: Raj Kumar & Others v. E.E. Bilaspur, decided on 28.4.2009, learned Labour Tribunal though held the workman entitled to reinstatement with continuity of service but no benefit of back wages was granted to the workman. Petitioner-Department also contended that learned Tribunal below failed to appreciate that respondent-workman did not lead any evidence on record to demonstrate that she remained un-employed during the period of her retrenchment from the services and as such any order holding the respondent-workman entitled to 50% back wages from the date of retrenchment i.e. 8th July, 2005 till date of award of compensation deserves to be rectified in accordance with law being unreasonable, unjustified, inappropriate and disproportionate. Petitioner-State also averred that fact remains that respondent-workman never worked during the retrenched period with the petitioner-Department and as such any order passed by the learned Tribunal below holding her entitled for 50% back wages qua that period is against the well settled principle of law i.e. "No Work No Pay".

9. In the aforesaid background, petitioner-State approached this Court by way of present writ petition for redressal of their grievance.

10. Shri Rupinder Singh Thakur, learned Additional Advocate General, appearing on behalf of the petitioner-State, vehemently argued that the impugned award dated 31.3.2009 passed by learned Labour Court, Dharamshala is not sustainable in the eye of law as the same is against basic principle of law. He

also contended that bare perusal of the impugned award itself suggests that it is not based upon the proper appreciation of the evidence made available on record. Rather, same appears to be passed on the basis of sympathies with the respondent-workman. He forcefully contended that there is nothing on record to suggest that during retrenched period respondent was not gainfully employed somewhere else and as such learned Tribunal has fallen into grave error in holding the respondent-workman entitled for 50% back wages for the retrenched period. During argument having been made by him, he also invited the attention of this Court to Annexure P-4, i.e. Reference No. 145/2002, titled: Raj Kumar and Others v. E.E., Bilaspur to demonstrate that in identical cases learned Tribunal issued order of reinstatement with the benefit of continuity of service but no back wages, whatsoever, were paid to the workman in those cases and as such learned Tribunal has not applied uniform yardsticks while deciding the case of the similarly situate persons. He also contended that if order passed by learned Tribunal is allowed to sustain, it would cause great financial hardship to the petitioner-State because other similarly situate persons would also claim amount as has been granted to the present respondent-workman by the Tribunal below.

11. At this stage it may be noticed that none has put in appearance on behalf of the respondent. Perusal of the order sheet dated 16.5.2016, attached with the Court case file, suggests that nobody has ever put in appearance on behalf of the respondent-workman after issuance of notices on 3.12.2009. Vide order dated 16.5.2016 this Court had issued actual date hearing notice returnable for 17.6.2016. Perusal of order dated 17.6.2016 suggests that sole respondent stands served for 17.6.2016 but on that date also nobody put in appearance on behalf of the respondent. Today, when the matter was taken up for hearing, despite repeated pass overs, none has come present on behalf of the respondent and as such Court was compelled to hear the matter, in the absence of the learned counsel for the respondent-workman, finally on merits on the basis of the record made available.

12. As has been observed above, petitioner-State is only aggrieved with that part of the award dated 31.3.2009, passed by the learned Labour Court below, whereby respondent-workman has been held entitled to 50% back wages from the date of retrenchment i.e. 8th July, 2005, meaning thereby petitioner-State is not aggrieved with the order of reinstatement that too with the benefits of continuity of service from the date of her retrenchment i.e. 8th July, 2005.

13. Further perusal of the writ petition itself suggests that respondent-workman stands re-engaged w.e.f. 15.9.2009 with benefit of continuity of service and as such this Court need not to go into the validity of award dated 31.3.2009 passed by the learned Labour Court as far as issue of reinstatement with benefit of continuity service is concerned. At this stage, after perusing the grounds taken by the petitioner-State while assailing the impugned award dated 31.3.2009, this Court has no hesitation to conclude/observe that respondent has not raised any

legal grounds, whatsoever, to assail the impugned award dated 31.3.2009, whereby respondent-workman has been entitled to 50% back wages from the date of retrenchment. Petitioner-State, instead of setting up some legal grounds to assail the impugned award, has made an attempt to gain sympathy of the Court by stating that implementation, if any, of the impugned award would cause great financial hardship to the State of Himachal Pradesh. But this Court is of the view that financial hardship, if any, cannot be a ground to disentitle the respondent-workman from the relief, which she is/was otherwise entitled under the provisions of law. Moreover, it is not understood that when the petitioner-State have accepted the reinstatement order that too with the benefit of continuity of service, on what grounds they have approached this Court praying for modification of the award dated 31.3.2009. Once findings of the Labour Court to the effect that the respondent-workman is entitled to reinstatement with continuity of service is accepted by the petitioner-State and same is implemented by re-engaging the respondent-workman, no ground, whatsoever, is available to the petitioner-State for not paying 50% back wages to the respondent-workman. At this stage, this Court is of the view that once learned Labour Court came to the conclusion that the respondent-workman is entitled to reinstatement that too with the benefit of continuity of service, respondent-workman has been rightly held entitled to the payment of 50% back wages because benefit of continuity of service, if any, could only be granted by the Court when it stands proved on record that during the period of retrenchment, work was available with the petitioner-department and the respondent-workman was prevented by the petitioner-department from doing work.

14. Another ground raised by the petitioner-State in the writ petition is that since workman had not worked during the said retrenched period in the petitioner-department and had also accepted the retrenchment compensation for four months wages, deserves to be rejected out rightly by this Court solely for the reason that learned Labour Court, while holding respondent-workman entitled for reinstatement, concluded that "petitioner retrenchment can, therefore, be safely held to be illegal in view of the above mentioned provisions of Section 25N of the Act". Rather, the learned Tribunal, while passing award dated 25.3.2009, has categorically concluded that there is violation of Sections 25(F, M, N, G and H), hence the petitioner-State cannot be allowed, at this stage, to rake-up the issue of payment of retrenchment compensation, if any, in the absence of specific challenge to that part of the award/findings returned by learned Tribunal below in its award dated 31.3.2009. However, to deal with the aforesaid averments raised in the grounds as well as arguments having been made on behalf of the petitioner-State, it would be apt to reproduce following portion of the award passed by the learned Tribunal below:-

"17. The petitioner in paragraph 4 of her statement of claim alleged that the workmen namely Subhash Chand, Shashi Kant, Bidhi Chand, Ranjeet Singh, Balak Ram, Dalip Singh, Dharampal and others, who were junior to her, were unlawfully retained in service by the respondent at the time her services were

dispensed with and the respondent thus violated the principle of "Last Come First Go" as contemplated under Section 25G of the Act. In reply, the respondent in paragraph 4 averred:

"That the contents of this para partly admitted, and it is submitted that some junior daily wages workers are working in Dharampur Division due to non availability of seniority of workers were transferred from other Division/Sub-Division. The case/seniority has scrutinised again when above facts came to the notice. However, the retrenchment notice to above juniors have also been served who are surplus to the requirement."

18. This reply of the respondent lends assurance only to the petitioner's allegation that certain workmen, who were junior to her, were retained in service at the time her services were dispensed with by the respondent.

19. Further, the petitioner in her affidavit specifically alleged that the workman namely Shashi Kant S/o Bihari Lal, who was engaged on January 1, 2000, was junior to her and retained in service at the time her (petitioner) services were terminated. The respondent's witness Naresh Kumar Sharma, Executive Engineer, HPPWD Division, Dharampur, in his cross-examination as RW1, however, denied the petitioner's suggestion that certain workmen junior to her (Petitioner) were retained in service at the time of termination of her services, but admitted to having prepared the seniority list/year-wise mandays chart in respect of the workman namely Shashi Kant S/o Bihari Lal, Ex.PW-1/B, according this said witness, is a true copy of the seniority list/year-wise, mandays chart issued by him. This document is demonstrative of Shashi Kant having been engaged as daily waged Beldar in Dharampur Division of HPPWD in the month of January, 2000 and his being in the employ of the respondent till November, 2008. In another seniority list Ex.RW1/C adduced in evidence by the respondent, Shashi Lal S/o Bihari Lal, who figures at serial No. 646, is shown to have been engaged on 6.4.1999. So he is indubitably junior to the petitioner. The said seniority list is also indicative of the said workman having been retained in service at the time the petitioner was retrenched. The respondent thus on his own showing lent credence to the petitioner's allegation that the workman Shashi Kant (Shashi Lal) who was junior to her, was retained in service at the time her services were dispensed with. In retrenching the petitioner, the respondent is thus proved to have violated the provisions of Section 25G of the Act.

20. The petitioner's Authorised Representative contends that the respondent had violated the provisions of Section 25H of the Act as well, because Mamta Devi w/o Hans Raj, who was engaged by the respondent as daily, waged Beldar in 2000 and retrenched along with the petitioner, was later reengaged in 2007 without giving the petitioner an opportunity to offer herself for re-employment.

21. Per contra, the Ld.Dy.D.A. argues that Mamta Devi having been engaged on compassionate grounds after the demise of her husband, who was also working

in HPPWD, the respondent cannot be said to have violated the provisions of Section 25H of the Act. This contention, to my thinking, appears to be holding water in view of the seniority list Ex.RW1/C which is indicative of Mamta Devi having been re-engaged on compassionate grounds. In view of her having been re-engaged on compassionate grounds, the petitioner's pleadings being non-existent in her allegation of Mamta Devi having been re-engaged after her retrenchment and this allegation of her not being the subject matter of the reference on hand, it is difficult to hold that the respondent had violated the provisions of Section 25H of the Act.

22. Since in retrenching the petitioner, the respondent is proved to have violated the provisions of Sections 25F and 25G of the Act, the petitioner is entitled to reinstatement in the same capacity as in which she was working at the time her services were dispensed with. Besides, she is entitled to continuity of service from the date of her retrenchment (July 8, 2005). Her claim of being entitled to regularisation with the policy of the State Government is, however, not being adjudicated upon, for the same is not the subject matter of the reference.

23. The petitioner in paragraph 15 of her statement of claim averred that she was not gainfully employed anywhere after the termination of her services, and that she was still unemployed. In substantiation of this claim she in her affidavit inter alia deposed that after her illegal retrenchment she was not gainfully employed anywhere and was still unemployed. There being no rebuttal to this deposition of her, her claim deserves acceptance and is accepted. In view of the facts and circumstances of the case, the petitioner, to my mind, is entitled to 50% back-wages from the date of her unlawful retrenchment. The issue under discussion is accordingly held in her favour and against the respondent."

15. Careful perusal of the aforesaid portion of the award passed by learned Tribunal clearly suggests that at the time of retrenchment of the respondent-workman, work was available with the petitioner-Department and workmen junior to the present respondent-workman were unlawfully retained in the service by the petitioner-Department at the time of illegal retrenchment of the respondent-workman in violation of the provisions of Section 25-G of the Act. Rather careful perusal of para-19 of the award, as reproduced herein above, suggests that learned Tribunal below had an occasion to peruse the Ex.PW-1/B i.e. the mandays chart, produced by the department at the time of hearing of the case by the Tribunal, wherein it transpired that the persons junior to the respondent-workman were retained in service by the petitioner-State at the time of retrenchment of the respondent-workman. Further perusal of the documents made available to the learned Tribunal below reveals that the persons engaged as daily waged Beldar in 2007, who were retrenched along with the respondent-workman, were retained again by the petitioner-Department in 2007 without giving respondent-workman an opportunity of reemployment.

16. It is crystal clear from the facts duly substantiated on the record by the documents that at the time of retrenchment of respondent-workman, work was

available with the petitioner-department, and junior persons to him were retained while retrenching her from the service, hence it can be safely concluded that at the time of retrenchment of respondent-workman, sufficient work was available with the department and respondent-workman was prevented by the department itself from rendering service, if any, with the department.

17. Reliance is placed on the judgment of the Hon"ble Apex Court in Raghubir Singh v. General Manager, Haryana Roadways, Hissar, 2014(6) SLR 6 (S.C.), wherein the Court held:

"39. Now, it is necessary for this Court to examine another aspect of the case on hand, whether the appellant is entitled for reinstatement, back wages and the other consequential benefits. In the case of Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya (D. Ed) and Ors., (2013)10 SCC 324 : [2013(6) SLR 642 (SC)], this Court opined as under:-

"22. The very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been but for the illegal action taken by the employer. The injury suffered by a person, who is dismissed or removed or is otherwise terminated from service cannot easily be measured in terms of money. With the passing of an order which has the effect of severing the employer employee relationship, the latter's source of income gets dried up. Not only the concerned employee, but his entire family suffers grave adversities. They are deprived of the source of sustenance. The children are deprived of nutritious food and all opportunities of education and advancement in life. At times, the family has to borrow from the relatives and other acquaintance to avoid starvation. These sufferings continue till the competent adjudicatory forum decides on the legality of the action taken by the employer. The reinstatement of such an employee, which is preceded by a finding of the competent judicial/quasi judicial body or Court that the action taken by the employer is ultra vires the relevant statutory provisions or the principles of natural justice, entitles the employee to claim full back wages. If the employer wants to deny back wages to the employee or contest his entitlement to get consequential benefits, then it is for him/her to specifically plead and prove that during the intervening period the employee was gainfully employed and was getting the same emoluments. Denial of back wages to an employee, who has suffered due to an illegal act of the employer would amount to indirectly punishing the concerned employee and rewarding the employer by relieving him of the obligation to pay back wages including the emoluments.

23. A somewhat similar issue was considered by a three Judge Bench in Hindustan Tin Works Pvt. Ltd. v. Employees of Hindustan Tin Works Pvt. Ltd. (supra).....The relief of reinstatement with continuity of service can be granted where termination of service is found to be invalid. It would mean that the employer has taken away illegally the right to work of the workman contrary to the relevant law or in breach of contract and simultaneously deprived the

workman of his earnings. If thus the employer is found to be in the wrong as a result of which the workman is directed to be reinstated, the employer could not shirk his responsibility of paying the wages which the workman has been deprived of by the illegal or invalid action of the employer. Speaking realistically, where termination of service is questioned as invalid or illegal and the workman has to go through the gamut of litigation, his capacity to sustain himself throughout the protracted litigation is itself such an awesome factor that he may not survive to see the day when relief is granted. More so in our system where the law's proverbial delay has become stupefying. If after such a protracted time and energy consuming litigation during which period the workman just sustains himself, ultimately he is to be told that though he will be reinstated, he will be denied the back wages which would be due to him, the workman would be subjected to a sort of penalty for no fault of his and it is wholly undeserved. Ordinarily, therefore, a workman whose service has been illegally terminated would be entitled to full back wages except to the extent he was gainfully employed during the enforced idleness. That is the normal rule. Any other view would be a premium on the unwarranted litigative activity of the employer. If the employer terminates the service illegally and the termination is motivated as in this case viz. to resist the workmen's demand for revision of wages, the termination may well amount to unfair labour practise. In such circumstances reinstatement being the normal rule, it should be followed with full back wages..... In the very nature of things there cannot be a strait-jacket formula for awarding relief of back wages. All relevant considerations will enter the verdict. More or less, it would be a motion addressed to the discretion of the Tribunal. Full back wages would be the normal rule and the party objecting to it must establish the circumstances necessitating departure. At that stage the Tribunal will exercise its discretion keeping in view all the relevant circumstances. But the discretion must be exercised in a judicial and judicious manner. The reason for exercising discretion must be cogent and convincing and must appear on the face of the record. When it is said that something is to be done within the discretion of the authority, that something is to be done according to the Rules of reason and justice, according to law and not humour. It is not to be arbitrary, vague and fanciful but legal and regular.....

24. Another three Judge Bench considered the same issue in Surendra Kumar Verma v. Central Government Industrial Tribunal-cum-Labour Court, New Delhi (supra) and observed: Plain common sense dictates that the removal of an order terminating the services of workmen must ordinarily lead to the reinstatement of the services of the workmen. It is as if the order has never been, and so it must ordinarily lead to back wages too.....In such and other exceptional cases the court may mould the relief, but, ordinarily the relief to be awarded must be reinstatement with full back wages. That relief must be awarded where no special impediment in the way of awarding the relief is clearly shown. True, occasional hardship may be caused to an employer but we must remember that, more often than not, comparatively far greater hardship is certain to be caused

to the workmen if the relief is denied than to the employer if the relief is granted."

(Emphasis supplied by this Court)"

(pp.23-25)

18. In the aforesaid background, this Court sees no illegality, whatsoever, in the order passed by the learned Labour Court, whereby respondent-workman has been held entitled to 50% back wages from the date of retrenchment i.e. 8th January, 2005. Another contention put forth on behalf of the petitioner-department that respondent-workman had not placed on record any document suggestive of the fact that during retrenchment period she was not gainful employee also deserves outright rejection because record suggests that respondent-workman issued notice stating therein that after planning illegal retrenchment, she was not gainful employee anywhere and she was still unemployed. Since, no reply rebutting the aforesaid deposition made by the workman was filed by the petitioner-department, learned Tribunal below rightly accepted the aforesaid submissions having been made on behalf of the respondent-workman.

19. Reliance is also placed on the judgment of the Hon"ble Supreme Court in *Vismay Digambar Thakare v. Ramchandra Samaj Sewa Samiti and Others*, (2012) 3 SCC 574, wherein the Court held:

"3. Only to recapitulate the line of arguments advanced before us we may mention that learned counsel for the appellant had placed reliance upon the decisions of this Court in *U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey*, (2006) 1 SCC 479, *Reetu Marbles v. Brabhakant Shkla*, (2010) 2 SCC 70, and *Metropolitan Transport Corporation v. V. Venkatesan*, (2009) 9 SCC 601, to contend that back wages could be awarded to the appellant even in the absence of a specific assertion by the appellant to the effect that he was not gainfully employed during the period he remained out of service. It was argued by learned counsel for the appellant on the strength of the above decisions that back wages could range between 25% to 60%.

4. On behalf the respondent-Institution, reliance was placed upon the decision of this Court *Kendriya Vidyalaya Sangathan & Anr. v. S.C. Sharma*, (2005) 2 SCC 363, in an attempt to demonstrate that unless there was a specific assertion that the appellant was not gainfully employed during the period he remained out of service, no back wages could be awarded in his favour.

5. It is not necessary for us to pronounce upon the rival contentions urged by learned counsel for the parties. We say so because the matter was mentioned before us on 28th February, 2012 by the learned counsel for the parties. It was submitted on behalf of the respondent-school and the Simiti that they were willing to pay to the appellant a sum of Rupees one lakh in full and final settlement of the claim made by him towards back wages. Mr. Manish Pitale,

learned counsel for the appellant submitted on instructions that the appellant was ready and willing to accept the said amount in satisfaction of his claim.

6. The parties having agreed to a solution, we see no reason why the same cannot be made a basis for disposal of this appeal in modification of the order passed by the High Court. We accordingly, allow this appeal but only in part and to the extent that the appellant shall be paid by respondents No. 1-Samiti and No. 2-Institution jointly and severally a sum of Rupees one lakh towards back wages in full and final settlement of the claim of the appellant on that account. The payment shall be made to the appellant within a period of three months from today failing which the amount shall start earning interest @ 10% p.a. from the date of this judgment till actual payment. The parties to bear their own costs."

(pp.575-576)

20. Consequently, in view of the detailed discussion made herein above, this Court sees no illegality and infirmity in the impugned award dated 31.3.2009 passed by learned Presiding Judge, Labour Court-cum-Industrial Tribunal, Dharamshala and as such the same is up-held and present petition is dismissed being devoid of any merit.

21. All the interim orders are vacated. All miscellaneous applications are disposed of.