
(2014) 07 P&H CK 0207
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 13277 of 2014

State of Punjab

APPELLANT

Vs

Presiding Officer

RESPONDENT

Date of Decision : 14-07-2014

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 33C(2)

Citation : (2014) 07 P&H CK 0207

Hon'ble Judges : Gurmeet Singh Sandhawalia, J

Bench : Single Bench

Advocate : Aman Bahri, Addl. A.G, Advocate for the Appellant

Judgement

G.S. Sandhawalia, J.—Challenge in the present writ petition is to the order dated 03.02.2014 (Annexure P-4) whereby, an application u/s 33C(2) of the Industrial Disputes Act, 1947 (in short "the Act") has been allowed by the Labour Court, Bathinda. Vide the said order, the respondent-workman has been entitled to receive full pay from 25.03.2004 to 24.05.2005 i.e. the day he submitted his joining report to the day he was reinstated. Interest has also been granted @ 6% per annum from the date of application till realization, in case the amount is not paid within 3 months.

2. A perusal of the paper book would go on to show that the workman was employed as Laboratory Attendant on 18.09.1995 and his services were terminated on 03.09.1996. He raised an industrial dispute and an award dated 30.01.2004 (Annexure P-1) was passed in his favour whereby, it was ordered that he was entitled to be reinstated into service with continuity and 50% back wages from the date of demand notice. He was directed to report for duty after one month from the date of publication of award. The relevant portion thereof reads thus:-

5. In view of my findings on aforesaid issues, this reference is accepted and the same stands answered and disposed off accordingly. Workman is ordered to be

reinstated into service with continuity of service with 50% back wages from the date of demand notice i.e. 28.01.2001. He is directed to report for duty after one month of publication of award. No order as to costs.

30.01.2004.

3. The workman submitted his joining report on 25.03.2004 but was not allowed to join for a period of more than 1 year and eventually, was made to join only on 24.05.2005. Resultantly, the application u/s 33C(2) of the Act was filed claiming financial benefits. The petitioner-department took the plea that the decision had been implemented and the application was unwarranted and unjustified. As noticed, the relief has now been granted with full pay from the day when he submitted his joining report to the day when he actually joined due to procedural delay.

4. Counsel for the State has vehemently submitted that only 50% back wages should have been granted and granting full pay for the period was not justified and even otherwise, he had not contributed towards the petitioner-department.

5. The said submission cannot be accepted. As noticed above, 50% back wages were only to be paid from the date of demand notice i.e. 28.01.2001 till the time he reported for duty. Thereafter, the petitioner-department had never challenged the said award and it became final. For procedural delays on account of its own lapse, the respondent-workman cannot be held liable. It was for the department to take work from him at the earliest since they had chosen not to file any writ petition against the award which had become final. For the delay of more than one year, which had occurred on account of the department itself, the workman cannot be faulted. He was ready and willing at all points of time and he was made a victim of illegal termination firstly and his legal rights were upheld by the Labour Court. Thereafter also, the work was not taken from him for a period of one long year and in such circumstances, his claim u/s 33C(2) of the Act was well justified. The Labour Court, while granting the said relief, has not exceeded its jurisdiction in any manner, which would warrant interference under Article 226 of the Constitution of India.

6. Accordingly, the present writ petition is dismissed in limine.