
State of Punjab and Others Vs Iqbal Singh and Another

Civil Writ Petition No. 3250 of 2000

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 9, 2001

Acts Referred:

Industrial Disputes Act, 1947 " Section 10

Hon'ble Judges: S.S. Nijjar, J

Bench: Single Bench

Advocate: H.S. Sran, Deputy Advocate General, for the Appellant; Hemant Kumar and Alok Jain, for the Respondent

Final Decision: Dismissed

Judgement

S.S. Nijjar, J.

This judgment shall dispose of Civil Writ Petition No. 3250 of 2000 and Civil Writ Petition No. 4066 of 2001.

2. Civil Writ Petition No. 3250 of 2000 is filed by the State of Punjab challenging the Award of the Labour Court wherein the petitioner has been

directed to be reinstated into service with a lumpsum amount of Rs. 15,000/- towards backwages. Civil Writ Petition No. 4066 of 2001 has been

filed by the workman seeking modification of the Award to the effect that the workman ought to have been granted full back wages on

reinstatement.

3. From the perusal of the pleadings and award, it becomes evident that the workman was employed as Pump Operator on 1st March, 1985. He

was drawing Rs. 900/-per month. He was appointed on daily wages. His name figures on the muster roll till his services were terminated with

effect from 31st May, 1998. It is the case of the petitioner-management in writ petition No. 3250 of 2000 that the respondent-Workman had not

completed 240 days of service in a single calender year before the alleged termination. It is also pleaded that the workman has voluntarily remained

absent from 13th May, 1995. He has not approached the Management for joining duty. It was also argued that the workman is gainfully

employed. Sh. Sran, learned Deputy Advocate General, Punjab submits that the workman himself, having abandoned the job, cannot be granted

the relief of reinstatement. He further submits that the workman only had contractual appointment. He was merely a daily wager and, therefore,

cannot be ordered to be reinstated.

4. Sh. Hemant Gupta, Advocate appearing for the respondent-workman in this writ petition and for the petitioner in the connected writ petition

No. 4066 of 2001 submits that once the Labour Court has come to the conclusion that termination of the services of the workman was illegal, he

ought to have been ordered to be reinstated with full back wages. Learned counsel further submits that the award needs to be modified to the

extent that the petitioner is reinstated with full back wages.

5. I have heard the counsel for the parties at length. I am unable to agree with the submissions made by the learned counsel for the Management. A

perusal of the Award clearly shows that the witnesses of the Management admitted that the workman was on duty from 1st March, 1985 till 31st

May, 1998. Therefore, it cannot be said that the workman had not completed 240 days continued service before his services were terminated.

The Labour Court has also appreciated the evidence with regard to the plea of abandonment. The workman himself stepped into the witness box

and offered himself for cross-examination. His testimony has not been shaken in the cross-examination. Furthermore, the muster roll also

supported the plea taken by the Workman. Therefore, there is no force in the submissions made by the learned counsel for the Management. Sh.

Sran has also laid considerable amount of stress on the plea that the reinstatement ought to be declined as the workman had not approached the

Labour Court expeditiously. According to the learned counsel, delay and laches ought to disentitle the workman from any relief. I am unable to

agree with this submission of the learned counsel also.

6. Time and again, it has been held by the Supreme Court that delay in approaching the Court or for making a references cannot be used for

declining the relief to the workman. After all, it is the poor unemployed workman who has to pluck enough courage to engage in a protracted legal

battle against the rich management. In such circumstances, it cannot be held that delay in raising the industrial dispute would disentitle the workman

from any relief. No general principle can be laid down. The plea of delay and laches has to be examined on the facts was no delay on the part of

the workman in approaching the appropriate authorities for the relief.

7. The Labour Court having found the termination to be illegal was wholly unjustified in not granting back wages to the workman. Consequently,

writ petition No. 3250 of 2000 is dismissed. Writ Petition No. 4066 of 2001 is allowed. Paragraph 9 of the Award of the of the Labour Court is

modified and the Management is directed to pay full back wages to the petitioner-workman instead of Rs. 15,000/- in lump sum awarded by the

Labour Court. Let the payment be made within a period of 60 days. No costs.