

(2000) 10 P&H CK 0035

High Court Of Punjab And Haryana At Chandigarh

Case No: C.W.P. No. 17699 of 1999

Ghulla Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Oct. 30, 2000

Acts Referred:

- Constitution of India, 1950 - Article 226
- Industrial Disputes Act, 1947 - Section 33

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

Bench: Division Bench

Advocate: Mr. B.R. Mahajan, for the Appellant; Mr. P.S. Chhina, D.A.G., for the Respondent

Judgement

Mehtab S. Gill, J.

Petitioner has prayed for is-suence of a writ in the nature of certiorari for queshing/modifying the order dated August 17, 1999 (An-nexure P-2) passed by the Presiding Officer, Labour Court, Gurdaspur, whereby 25% of the back wages were awarded to him.

2. The petitioner has averred that he joined service as a Mali with respondent Nos, 2 and 3 on January 1, 1982. His services were illegally terminated without any notice, retrenchment compensation, enquiry or charge- sheet with effect from October 1, 1987. Representations were made against the illegal termination and a demand notice dated December 18. 1987 was served. A settlement was arrived at between the parties on April 8, 1988 and the department agreed to rainstate the petitioner with continuity in service. The petitioner reported for duty on April 12,1988. Though he was allowed to join duty, but was not given any work nor was his presence marked and further also was not paid any wages. It has been further averred that on October 11, 1988 an application u/s 33-C(2) of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act") was filed by him. Respondent Nos. 2 and 3 contested the claim of the petitioner. The Labour Court held that the settlement

dated April 8, 1988 recorded u/s 12(3) of the Act was binding on the department and thus, the workman was entitled to reinstatement in service and also entitled to back wages. The Labour Court allowed the application and directed the official respondents to pay a sum of Rs. 3440/- as wages to the petitioner for the period from April 12, 1988 to September 30, 1988. A copy of the order dated January 30, 1996 is annexed with the petition as Annexure P-1.

3. It has been further averred that the petitioner-workman was not reinstated in service and he made another application u/s 33C(2) of the Act on August 7, 1992 claiming wages from October 1, 1988 to July 31, 1992. On this application, the Labour Court held that the petitioner shall be entitled to 25% back wages for the period from October 1988 to July, 1992 and computed the amount of Rs. 11,705/- as payable to him. A copy of the award dated August 17, 1999 is annexed with the petition as Annexure P-2. This order is under challenge in this writ petition.

4. Notice of motion was issued to the respondents. The official respondents filed written statement and contested the claim of the petitioner.

5. We have heard counsel for the parties and perused the petition and the annexures attached therewith.

6. Annexure P-1 dated February 14, 1996 and Annexure P-2 dated August 17, 1999 passed under the Act by the Labour Court have gone unchallenged by the respondents, i.e., the Range Forest Officer, Quadian, District Gurdaspur and the Divisional Forest Officer, Pathankot, District Gurdaspur and thus, they have now become final. The finding that petitioner is entitled to the wages has, therefore, become final.

7. The only fact which requires consideration in this case is whether the Labour Court granting 25% of back wages to the petitioner vide order dated August 17, 1999 Annexure P-2 was just or not. There is nothing on record to show that the petitioner-work man was gainfully employed. On the point of back wages, we rely upon the decision rendered in Haro Palace, Ambala City v. The Presiding Officer, Labour Court and another 1979 P.L.R. 720, wherein a Full Bench of this Court has held that "ordinarily, the 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 and party objecting to it must establish the circumstances necessitating departure."

8. Keeping in view the law laid down in the case cited above, we hold that the petitioner deserves full back wages.

For the reasons recorded above, we allow the writ petition and grant full back wages to the petitioner.

9. Petition allowed.