

(2001) 10 P&H CK 0160

High Court Of Punjab And Haryana At Chandigarh

Case No: C.O.C.P. No. 1114 of 1999

Harbans Lal Chhabra

APPELLANT

Vs

Sh.R.S.Mann, Chief Secretary,
Punjab and others

RESPONDENT

Date of Decision: Oct. 29, 2001

Citation: (2002) 1 RCR(Civil) 257

Hon'ble Judges: R.L.Anand, J

Advocate: Mr. Padam Jain, Advocate, Mr. S.K. Sharma, Sr. DAG, Punjab, Mr. S.S. Saron, Advocate., Advocates for appearing Parties

Judgement

R.L. Anand, J.

I have heard the learned counsel for the parties and with their assistance, have gone through the record of this case.

2. Some facts can be noticed in the following manner :

Shri Harbans Lal Chhabra was a Booking Clerk in the Punjab Film and News Corporation Limited (hereinafter called "the Corporation"). He was appointed in the Corporation in the month of December, 1975 on the consolidated salary of Rs. 300/ per month. He was removed from service w.e.f. 27th May, 1977. The petitioner served a demand notice and his matter was referred to the Labour Court for adjudication. The Labour Court gave an award dated 15th January, 1980 and the petitioner was reinstated into service with the benefit of continuity of service but the back wages were not awarded to the petitioner. Resultantly, the petitioner filed Civil Writ Petition No. 3410 of 1980 before the Hon"ble High Court which was disposed of vide order dated 6th January, 1997 by my Lord Hon"ble Mr. Justice V.K. Jhanji and the writ petition was allowed and the award of the Labour Court was modified to the extent that the petitioner in addition to the relief of reinstatement with continuity of service was held entitled to full backwages from the date of demand notice till the reinstatement. This judgment has attained finality.

3. The Corporation went into losses. It was not viable Corporation in the government. Resultantly, the government took a decision on 6th May, 1991 that the Corporation should be wound up within a minimum possible time. It was also the policy of the government that the exemployees of the Corporation should be absorbed in the service of the State Government. It may also be mentioned here that the employees of the ExCorporation were governed by the Contributory Provident Fund Scheme while the employees of the State Government are eligible to the benefit of pension etc. as per the C.S.R. Rules. The petitioner was ultimately absorbed to the post of a Peon vide order dated 30th August, 1999 and he joined the service on 22nd October, 1999 and he is getting the salary of a peon in the payscale as applicable to the post of a peon.

4. It may also be mentioned here that the petitioner earlier filed a petition under Section 33C(2) of the Industrial Disputes Act on the plea that the scale of the booking clerk has been revised from time to time and, therefore, he is entitled to enhanced wages. This request was allowed by the Labour Court and the government has also paid the same to the petitioner

5. Now before me the controversy is twofold : (1) whether there is a compliance of the order dated 6th January, 1997 passed by the High Court in C.W.P. No. 3410 of 1980; and (2) the order passed by the Labour Court. The cumulative effect of both these orders is that the petitioner is supposed to be reinstated into service with benefit of continuity of service and he is also entitled to the full back wages. In these circumstances, I give direction that the petitioner be relegated to the status quo ante as a booking clerk for all intents and purposes as on 27th May, 1997. His initial pay was Rs. 300/ per month consolidated which was revised from time to time as stated at the Bar by the learned counsel for the petitioner. Had the Corporation was not ordered to be wound up, the petitioner would have remained the employee of the Corporation and thereafter as per the policy of the State Government, he would have been absorbed in the State Government as a peon within a reasonable time from the date of the passing of the order by the Government. If the petitioner has not been absorbed to the post of a peon till 30th August, 1999/22nd October, 1999, the fault lies with the State Government and not with petitioner. As I stated above, the decision for winding up of the Corporation was taken on 6th May, 1991 and, therefore, the petitioner would be deemed to be in service up to 5th May, 1991 in the Corporation and from 6th May, 1991 he will be considered as an employee of the State Government for a limited purpose so as to take benefit of pension. The respondents are directed to amend his service book and his deemed date of joining the service may be considered as 6th May, 1991. It is hereby clarified that the petitioner will not be entitled to any backwages from 6th May, 1991 up to 21st October, 1999 when he actually joined the post of a Peon. It is also hereby clarified and declared that the petitioner will be considered a permanent employees to the post of a peon. This direction is hereby issued so that the petitioner may not be shunted out from service.

6. The second direction is with regard to the entitlement of backwages, if any, to the petitioner. The petitioner earlier filed a petition under Section 33C(2) of the Industrial Disputes Act before the Labour Court in which certain directions were given to the respondent. As stated by the learned counsel for the respondent the said directions have already been complied with and the respondent has paid the arrears which were ordered by the Labour Court. The decision of the Labour Court is dated 11th October, 1996. A reading of the same would show that arrears up to 30th June, 1989 have been paid to the petitioner in terms of the order dated 11th October, 1996. If any amount is still due to the petitioner from 1st July, 1989 up to 5th May, 1991 it will be open to the petitioner to file a fresh application before the Labour Court which shall be disposed of accordingly. I give direction to the Labour Court that the plea of limitation shall not come in the way of the petitioner. It is further clarified that the government will not be entitled to realise any amount paid to the petitioner towards salary from 6th May, 1991 up to 21st October, 1999. However, the government will be entitled to deduct from the gratuity/pension of the petitioner any amount which has been contributed by the Corporation towards provident fund during the period from 6th May, 1991 to 21st October, 1999. With the above order, the present contempt petition stands disposed of.