

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.****LPA No.312 of 2025****Reserved on: 18.11.2025****Decided on: 28th November, 2025**

State of H.P. and another

...Appellants

Versus

Ramesh Kumar and another

...Respondents

*Coram****The Hon'ble Mr. Justice G.S.Sandhawalia, Chief Justice.******The Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.******Whether approved for reporting?¹*****For the Appellants: Mr.Rakesh Dhaulta, Additional Advocate General.****For the Respondents: Mr.Ravinder Singh Chandel, Advocate for respondent No.1.
Mr.Bhanu Verma, Advocate for respondent No.2.**

Jiya Lal Bhardwaj, Judge

The challenge in the present appeal is against the judgment dated 21.10.2024 passed in CWP No.6463 of 2021, titled, ***State of H.P and another vs. Ramesh Kumar and another***, whereby the writ petition preferred by the appellants-State has been dismissed and the award dated 23.12.2019, passed by the Himachal Pradesh Industrial Tribunal-cum-Labour Court, Shimla, in Reference No. 46 of

¹ *Whether the reporters of Local Papers may be allowed to see the judgment?*



2016, titled, ***Ramesh Kumar vs. State of H.P. & Ors.*** has been affirmed.

2. The respondent-workman, as per claim petition filed by him before the Labour Court, was engaged as a Beldar (part-time) by the appellants in the month of November, 2006 for Deola Water Supply Scheme under I&PH Sub-Division, Gumma, Tehsil Sunni, District Shimla, H.P. It has further been averred that he continuously worked in the aforesaid capacity till April, 2008 and thereafter his services were orally terminated by the appellants-State, without issuing any prior notice on him or giving any retrenchment compensation, which action is bad and in violation of Section 25-F of the Industrial Tribunal Act (for short “the I.D Act”). It was further averred that juniors to him were retained by the appellants-State and thus, action on the part of the appellants-State is violative of Section 25-G of the I.D Act.

3. The respondent-workman raised the dispute after eight years of his disengagement. The appropriate Government referred the dispute for adjudication before the Labour Court and following was the reference made:-

"Whether termination of the services of Shri Ramesh Singh s/o Shri Keshav Ram, Village & P.O. Deola, Tehsil Sunni, District Shimla during



April 2008 by the Pradhan, Gram Panchyat Deola, Tehsil Sunni, District Shimla, H.P. and the Executive engineer I&PH Division Sunni District Shimla, HP, who was engaged by the Pradhan Gram Panchyat Deola, Tehsil Sunni District Shimla or carrying out the work of distribution of drinking water in the Gram Panchyat Deola and payment of wages were made by the Executive Engineer I&PH Division Sunni, District Shimla HP through the Pradhan Gram Panchyat Deola Tehsil Sunni District Shimla is legal and justified? If not what relief including reinstatement, amount of back- wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employers?"

4. The appellants-State filed reply to the claim petition and took preliminary objections regarding maintainability of the claim petition on the plea that the respondent-workman was engaged on honorarium basis by the Pradhan, Gram Panchayat, Deola, who was party respondent No.3. He was not the employees of the appellants-State. It was also specifically pleaded that the claim petition preferred is not maintainable due to delay and laches since the respondent-workman has approached the Hon'ble Court after a gap of eight years.

5. The Labour Court-cum-Industrial Tribunal after completion of the pleadings, framed the issues and after



recording the evidence, answered the reference partly in favour of the respondent-workman and against the appellants-State on 23.12.2019. The Labour Court directed the appellants-State to re-engage the respondent-workman forthwith anywhere in I&PH Sub Division Sunni as a Beldar, however, keeping in view the totality of circumstances, more particularly, the delay in espousing his cause, the respondent-workman shall not be entitled to any back wages, seniority and continuity in service. Further, the appointment of the respondent-workman was to be prospective in nature.

6. The appellants-State feeling aggrieved by the award passed by the Labour Court, preferred the writ petition before this Court and averred that the Labour Court has erred while passing the award, since the appellants-State had never engaged the respondent-workman and there is no direct nexus between him and the appellants-State, thus, the Labour Court should not have passed the order for reinstatement of the respondent-workman. It was further averred in the writ petition that even as per the claim set up by the respondent-workman, he was engaged as Beldar (part-time). The respondent-workman has failed to prove by leading any evidence that he was appointed with the appellants-



State. It was further the specific case of the appellants-State that the respondent-workman was working on a fixed honorarium with the Panchayat.

7. The learned Single Judge after perusal of the award came to the conclusion that since no notice was ever issued to the respondent-workman prior to his dis-engagement, the award passed by the Labour Court did not suffer from any infirmity. So far as the delay of eight years at the behest of the respondent-workman to approach the competent Court of law is concerned, the Labour Court below had rightly ignored the same for two reasons *firstly; that in terms of reference, there was no specific question, if any, ever came to be referred qua the delay on the part of the respondent-workman in raising the dispute and secondly; while taking note of delay, if any, in raising dispute, the Labour Court below had sufficient powers to mould the relief* ;and the Labour Court, while taking note of the delay, has ordered his reinstatement from the date of passing of award, but without back wages, continuity and seniority and thus had not found any merit in the petition and accordingly dismissed the same vide order dated 21.10.2024.



8. The main grievance raised by the appellants-State as highlighted before this Court by Mr. Rakesh Dhaulta, learned Additional Advocate General is that the respondent-workman as per his own pleadings has worked only from November, 2006 till April, 2008, which is for one year and six months and on daily wage basis. If the appellants-State had not followed the procedure as required under the I.D Act, more particularly, service of notice upon the respondent-workman, the order of reinstatement could not have been passed and at the most, the direction could have been given to pay a lump sum compensation as has been held in various pronouncements by the Hon'ble Apex Court. Admittedly, the respondent-workman is not in service from April, 2008.

9. The appellants-State further argued that the learned Single Judge has also not considered one of the most vital fact that the respondent-workman, even as per the claim petition preferred by him was 50 years old in the year 2016 and as per date of birth as mentioned in the grounds of appeal, the respondent-workman ought to have been retired on 30.06.2024, since his date of birth is 24.06.1966. Thus, the order passed by the learned Single Judge upholding the award of Labour Court deserves to be quashed and the



respondent-workman, if any, is held entitled to be paid only lump sum compensation since he has served only for one year and six months and further he had raised the dispute after lapse of eight years of his dis-engagement.

10. On the other hand, the learned counsel representing the respondent-workman has supported the judgment passed by the learned Single Judge, who has affirmed the findings returned by the Labour Court. The learned counsel vehemently argued since the Labour Court has returned the findings of fact and the writ Court has been pleased to dismiss the writ petition preferred by the appellants-State, this Court in appeal cannot re-appreciate the evidence as well as the findings recorded by the Labour Court as affirmed by learned Single Judge.

11. We have heard the learned counsel for the parties and carefully perused the material placed on record.

12. So far as the first contention raised by the appellants-State regarding the factum that the respondent-workman was not engaged by them is concerned, since this finding has been arrived at by the Labour Court and affirmed by the learned Single Judge of this Court, this Court, in appeal, cannot re-appreciate and re-evaluate the said part of



the evidence. Further, the finding returned for non-compliance of the provisions of Section 25-F is also affirmed being findings of fact.

13. However, so far as the finding regarding the reinstatement of the respondent-workman is concerned, this Court is not concurring with the same. It is admitted fact that the respondent-workman was engaged as Beldar (part-time) in the month of November, 2006 and worked only till April, 2008, when his services were terminated. Since the services of the respondent-workman were terminated in the month of April, 2008, he did not rake-up the issue immediately thereafter and the reference was made only in the year 2016, which is admittedly after a gap of eight years of dis-engagement of services of the workman. Further aspect which is required to be seen is that after passing the award in favour of the respondent-workman on 23.12.2019, he had not taken any effective steps for his reinstatement, though the appellants-State had preferred the writ petition before this Court, but there was no stay granted by this Court. When the matter was listed before this Court on 01.09.2022, the learned counsel who had put in appearance for the respondent-workman, sought time to file reply to the writ



petition. The writ record reveals that the respondent-workman has neither filed reply to the writ petition nor took steps to file an application under Section 17-B of the I.D Act.

14. The conduct of the respondent-workman shows that he was not very much keen to reap the fruits of the award passed in his favour, since he had not taken any effective steps for his re-engagement after passing the award in his favour. It was also not disputed by the learned counsel representing the respondent-workman that when he had preferred the claim petition in the year 2016, he was 50 years of age and further as per the averments made in the appeal, he being born on 24.06.1966 ought to have retired on 30.06.2024.

15. The Hon'ble Apex Court has held in various pronouncements that a daily wager who has been dis-engaged cannot claim regularization as a matter of right and he has no right to continue even if there is non-compliance of Section 25-F of the I.D Act. It has been held by the Hon'ble Apex Court in ***Assistant Engineer Rajasthan Development Corporation and another*** versus ***Gitam Singh, (2013) 5 SCC 136*** that where a daily wager had worked for a short period, instead of reinstatement, he can be awarded lump-



sum compensation. The relevant paragraphs of the judgment are re-produced hereinbelow:-

“27.In our view, Harjinder Singh and Devinder Singh do not lay down the proposition that in all cases of wrongful termination, reinstatement must follow. This Court found in those cases that judicial discretion exercised by the Labour Court was disturbed by the High Court on wrong assumption that the initial employment of the employee was illegal. ***As noted above, with regard to the wrongful termination of a daily wager, who had worked for a short period, this Court in long line of cases has held that the award of reinstatement cannot be said to be proper relief and rather award of compensation in such cases would be in consonance with the demand of justice. Before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors, including the mode and manner of appointment, nature of employment, length of service, the ground on which the termination has been set aside and the delay in raising the industrial dispute before grant of relief in an industrial dispute.***

28. We may also refer to a recent decision of this Court in **BSNL v. Man Singh**. That was a case where the workmen, who were daily wagers during the year 1984-1985, were terminated without following Section 25-F. The industrial dispute was raised after five years and although the Labour Court had awarded reinstatement of the workmen which was not interfered by the High Court, this Court set aside the award of reinstatement and ordered



payment of compensation. In paras 4 and 5 of the Report this Court held as under:

- "4. This Court in a catena of decisions has clearly laid down that although an order of retrenchment passed in violation of Section 25-F of the Industrial Disputes Act may be set aside but an award of reinstatement should not be passed. This Court has distinguished between a daily wager who does not hold a post and a permanent employee.
5. In view of the aforementioned legal position and the fact that the respondent workmen were engaged as 'daily wagers' and they had merely worked for more than 240 days, in our considered view, *relief of reinstatement cannot be said to be justified and instead, monetary compensation would meet the ends of justice.*"

29. In light of the above legal position and having regard to the facts of the present case, namely, **the workman was engaged as daily wager on 1-3-1991 and he worked hardly for eight months from 1-3-1991 to 31-10-1991, in our view, the Labour Court failed to exercise its judicial discretion appropriately. The judicial discretion exercised by the Labour Court suffers from serious infirmity. The Single Judge as well as the Division Bench of the High Court also erred in not considering the above aspect at all.** The award dated 28-6-2001 directing reinstatement of the respondent with continuity of service and 25% back wages in the facts and circumstances of the case cannot be sustained and has to be set aside and is set aside. In our view, **compensation of Rs 50,000 by the appellant to the**



respondent shall meet the ends of justice. We order accordingly. Such payment shall be made to the respondent within six weeks from today failing which the same will carry interest @ 9% per annum.”

16. Subsequent to the aforementioned dictum, the Hon’ble Apex Court in ***Bharat Sanchar Nigam Limited*** versus ***Bhurumal (2014) 7 SCC 177*** has again held that even if the termination is found illegal because of procedural defects and in violation of Section 25-F of the Industrial Disputes Act, the Court can grant the lump-sum amount instead of ordering re-engagement. The relevant paragraphs of the judgment are reproduced as under:-

“5. In the claim statement filed by the respondent before the CGIT, the respondent stated that he had been working as a Lineman with the appellant from 1.7.1987 and worked in that capacity till 27.04.2002 on daily wage basis. He also stated that on 17.11.2001, while repairing the fault of a telephone, he suffered electric shock and due to this accident, he sustained injuries. He was admitted in a hospital. He was not paid his salary from August 2001 to April 2002. His services were *illegally terminated with effect from 28.04.2002.*

6 to 19.1

19.2 It is also held that the respondent had worked for almost 15 years i.e. 01.07.1987 to 27.04.2002.



19.3 to 32.....

33. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice, etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view that in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.

34. The reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily-wage basis and even after he is reinstated, he has no right to seek regularization. Thus when



he cannot claim regularization and he has no right to continue even as a daily-wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

35. We would, however, like to add a caveat here. There may be cases where termination of a daily-wage worker is found to be illegal on the ground that it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. *while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularized under some policy but the workman concerned terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement.* In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.

36. Applying the aforesaid principles, let us discuss the present case. We find that the respondent was working as a daily wager. Moreover, the termination took place more than 11 years ago.



No doubt, as per the respondent he had worked for 15 years. However, the fact remains that no direct evidence for working 15 years has been furnished by the respondent and most of his documents are relatable to two years i.e. 2001 and 2002. Therefore, this fact becomes relevant when it comes to giving the relief. Judicial notice can also be taken of the fact that the need of lineman in the telephone department has been drastically reduced after the advancement of technology. For all these reasons, we are of the view that ends of justice would be met by granting compensation in lieu of reinstatement.

37. In Man Singh (supra) which was also a case of BSNL, this Court had granted compensation of Rs.2 Lakh to each of the workmen when they had worked for merely 240 days. Since the respondent herein worked for longer period, we are of the view that he should be paid a compensation of Rs. 3 lakhs. This compensation should be paid within 2 months failing which the respondent shall also be entitled to interest at the rate of 12% per annum from the date of this judgment. Award of the CGIT is modified to this extent. The appeal is disposed of in the above terms. The respondent shall also be entitled to the cost of Rs.15,000/- (Rupees Fifteen Thousand only) in this appeal.”

17. The Hon’ble Apex Court has also categorically held that at the time of considering the claim of the workman, the Court is bound to take into account the duration or tenure of



appointment, coupled with the long gap since dis-engagement and the fact that the employer did or did not resort to unfair labour practice. In this regard, the judgment passed by the Hon'ble Apex Court in ***District Development Officer and another vs. Satish Kantilal Amrelia (2018) 12 SCC 298*** is clear on the point and the relevant paragraphs of the judgment are reproduced hereinbelow:-

“12. Having gone through the entire record of the case and further keeping in view the nature of factual controversy, the findings of the Labour Court, the manner in which the respondent fought this litigation on two fronts simultaneously, namely, one in the civil court and the other in the Labour Court in challenging his termination order and seeking regularization in service, which resulted in passing the two conflicting orders one in the respondent's favour (Labour Court) and the other against him (civil court) and lastly, it being an admitted fact that the respondent was a daily wager during his short tenure, which lasted hardly two-and-half years approximately and coupled with the fact that 25 years have since passed from the date of his alleged termination, we are of the considered opinion that the law laid down by this Court in BSNL v. Bhurumal would aptly apply to the facts of this case and we prefer to apply the same for disposal of these appeals.

13.....

14. We have taken note of one fact here that the Labour Court has also found that the termination is



bad due to violation of Section 25-G of the Act. In our opinion, taking note of overall factual scenario emerging from the record of the case and having regard to the nature of the findings rendered and further the averments made in the SLP justifying the need to pass the termination order, this case does not fall in exceptional cases as observed by this Court in para 35 of BSNL case due to finding of Section 25-G of the Act recorded against the appellant. In other words, there are reasons to take out the case from exceptional cases contained in para 35 because we find that the appellant did not resort to any kind of unfair practice while terminating the services of the respondent.

15. In view of the foregoing discussion, we are of the considered view that it would be just, proper and reasonable to award lump sum monetary compensation to the respondent in full and final satisfaction of his claim of reinstatement and other consequential benefits by taking recourse to the powers under Section 11-A of the Act and the law laid down by this Court in BSNL case.

16. Having regard to the totality of the facts taken note of supra, we consider it just and reasonable to award a total sum of Rs.2,50,000 (Rs two lakhs fifty thousand) to the respondent in lieu of his right to claim reinstatement and back wages in full and final satisfaction of this dispute.”

18. Similar view has been taken by the Hon’ble Supreme Court in the ***State of Uttrakhand and another*** vs.



Raj Kumar, (2019) 14 SCC 353 and in the recent judgment passed by the Hon'ble Apex Court in **Civil Appeal No.001198/2025 [arising from SLP(C) No(s) 20902 of 2024]**, titled, **Amit Kumar Dubey vs. MPPKVV Co. Limited and another**. The relevant paragraphs of the judgment passed in **Amit Kumar Dubey's case** (supra) are reproduced hereinbelow:-

“7. On 06.09.2024, this Court had issued notice in the matters limited to the question of quantum of compensation awarded by the High Court as it agreed with the observation of the High Court that in every case where termination is found to be illegal, the grant of reinstatement cannot be applied mechanically. **Where such a termination is found illegal because of a procedural defect such as in violation of Section 25F of ID Act, this Court has consistently taken a view that in lieu of reinstatement the grant of monetary compensation shall meet the ends of justice.**

8. However, we do not find the grant of a sum of Rs. 50,000/-(Rupees Fifty thousand only) as compensation by the High Court to be adequate and just in the facts and circumstances of the present matters. The amount of sum of Rs. 50,000/-(Rupees Fifty thousand only) is too nominal and unjust considering that the appellants were working as Operator TA Grade with the respondent. **Additionally, the High Court while passing the impugned order has also lost sight of the fact that each of the appellant had served for a varying duration of time and a blanket/uniform grant of Rs. 50,000/- (Rupees Fifty thousand only) as compensation in differing cases shall not meet the ends of justice and will be in contravention with the principle of proportionality.**

9.....



10. Accordingly, the appeals are partly allowed to the extent of enhancement of compensation as directed above which is to be paid within three months from today. Further, any payment made to the appellant(s) under Section 17B of the ID Act shall be set off while calculating the final amount to be paid. Additionally, the respondent shall be at liberty to consider the re-engagement of the appellant(s) in view of the provisions contained in Section 25H of the ID Act."

19. The above pronouncements of the Hon'ble Apex Court have clearly culled out that where the workman has served for a short period and there is delay in approaching the Labour Court, instead of ordering reinstatement of the workman, the appropriate course is to award a lump-sum compensation to him. In the present case, as highlighted above, even as per own pleadings of the respondent-workman, he has served only for one year and about six months with the appellants-State and his services were dis-engaged in the month of April, 2008. It is also evident from the record that the workman had awoken from slumber after eight years.

20. The learned Single Judge while upholding the award passed by the Labour Court has erred to affirm the findings of reinstatement and thus, the findings of reinstatement are required to be interfered with by this Court.



21. It is borne out from the record that the respondent-workman was 50 years of age when he had preferred the claim petition in the year, 2016 and the appellant-State has specifically averred in the grounds of appeal that he was born on 24.06.1966 and would have been retired on 30.06.2024, after attaining the age of superannuation. Thus, the order passed by the Labour Court, reinstating the respondent-workman is of no consequence at this stage. As already noticed above, the respondent-workman did not take any effective steps for seeking implementation of the award passed in his favour, especially when there was no stay passed by this Court. These facts have not been considered by the learned Single Judge while dismissing the writ petition preferred by the appellant-State.

22. The Division Bench of this Court, in which one of us (Hon'ble the Chief justice) was a member, has already dealt with the same very issue, after considering the aforementioned judgments of the Hon'ble Supreme Court in LPA No.136 of 2025, titled, ***State of H.P. and others versus Pal Singh*** decided on 08.05.2025 and awarded lump sum compensation of Rs.2.5 Lakhs in lieu of reinstatement.



23. The Hon'ble Supreme Court in the case of **Amit Kumar Dubey's** case (supra) has culled out the formula and has held that if the workman has served for one year, he is entitled to Rs.1.5 lakhs and if worked for a part of year, then the amount of compensation is to be calculated at the same rate to be applied on pro-rata basis. In the present case, since the respondent-workman had served only for 1 year and 6 months, he is entitled to an amount of Rs.2.25 lakhs as lump-sum compensation towards full and final settlement in lieu of reinstatement.

24. The findings returned by the Labour Court to the effect that services of the respondent-workman have been disengaged without following the due process of law and affirmed by the learned Single Judge, are upheld. However, the findings returned by the Labour Court regarding reinstatement of the respondent-workman and affirmed by the learned Single Judge, are interfered with.

25. In view of the above discussion and the reasons recorded hereinabove, the present appeal is partly allowed and award dated 23.12.2019 passed by the Labour Court regarding reinstatement of the respondent-workman in service and affirmed vide judgment dated 21.10.2024 in CWP



No.6463 of 2021, titled, ***State of H.P and another vs. Ramesh Kumar and another*** is quashed. The findings on other issues are affirmed. The respondent-workman is held entitled to lump-sum compensation of Rs.2,25,000/- (Rs. Two Lakhs & Twenty Five Thousand only) in lieu of reinstatement towards full and final settlement of his claim to be paid by the appellants-State within a period of three months from today. In case the compensation amount as assessed is not paid to the respondent-workman within three months from today, it shall carry interest @6% per annum from today till the actual payment to the respondent-workman. No orders as to costs.

The pending applications, if any, also stand disposed of accordingly.

(G.S.Sandhawalia)
Chief Justice

(Jiya Lal Bhardwaj)
Judge

November 28, 2025
(naveen)