

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No.1423/2009

Sita Ram Son Of Shri Ram Chandra, aged about 35 years,
Resident of Village Tordi, Tehsil Malpura, District Tonk, Raj.

----Petitioner

Versus

1. The Assistant Engineer, Irrigation Sub-Division, Malpura,
District Tonk Raj.
2. The Judge, Labour Court No. 2, Jaipur Raj. --Respondents

For Petitioner(s) : Mr. Suresh Kashyap,

For Respondent(s) : Mr. Gopal Krishan Sharma, AGC

HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Judgment

Date of conclusion of arguments:- 25/02/2026

Date on which the judgment

was Reserved :- 25/02/2026

Whether the full judgment or only the operative part is
pronounced:- Full Judgment

Date of pronouncement:- 27/02/2026

1. The present writ petition has been filed by the petitioner-workman challenging the award dated 09.10.2003 passed by the learned Labour Court No.2 Jaipur, whereby though the termination of the petitioner was held to be in violation of Section 25-F of the Industrial Disputes Act, 1947 (for short, 'the Act of 1947'), the relief of reinstatement was declined. The petitioner has prayed that he may be reinstated in the services with 25 percent back wages and other consequential benefits.

2. Briefly stated, the petitioner was engaged by the respondent-department as a daily wager and thereafter, his services came to be terminated without issuance of notice or payment of retrenchment

compensation as contemplated under Section 25-F of the Act of 1947.

3. Thereafter, the dispute was raised and referred for adjudication before the Labour Court and upon appreciation of the pleadings and evidence, the learned Labour Court recorded a finding that the mandatory requirements of Section 25-F had not been complied with and, therefore, the retrenchment was illegal. However, taking into consideration the nature of engagement and other attendant circumstances, the Labour Court declined reinstatement.

4. Learned counsel for the petitioner contends that once the Labour Court recorded a categorical finding that the retrenchment was in violation of Section 25-F of the Act of 1947, reinstatement ought to have followed as a natural and consequential relief and denial of the same defeats the very protection afforded by the statute.

5. It is further argued that illegality in termination renders the order void ab initio and the workman is entitled to restoration of service with continuity and consequential benefits. In this regard, reliance has been placed upon the judgment passed by the Co-ordinate bench of this Court in the case of **Ram Prasad Mali v. The Regional Officer, Archaeological Survey of India, 2017 (2) WLC (Raj.) UC 637** to contend that violation of Section 25-F ordinarily results in reinstatement unless exceptional circumstances are made out.

6. Per contra, learned counsel appearing for the respondents supports the impugned award and submits that the Labour Court has exercised its discretion judiciously and in consonance with settled principles of law.

7. It is submitted that the petitioner was engaged purely as a daily wager without any formal recruitment process, for a limited duration

and his engagement was neither against a sanctioned post nor pursuant to any regular selection procedure.

8. Learned counsel further submits that considerable time has elapsed since the date of termination and the nature of the establishment has undergone substantial changes, therefore, reinstatement at this stage would not only disturb administrative functioning but would also be inequitable. In this regard, reliance is placed upon the judgment passed in the case of **State of Uttarakhand & Anr. v. Raj Kumar, (2019) 14 SCC 353** and Co-ordinate bench of this Court in the case of **Iqbal Hussain v. Judge, Labour Court & Ors., 2025:RJ-JP:46321**, to contend that reinstatement is no longer an automatic consequence of violation of Section 25-F, particularly in cases involving daily wagers or short-term engagements.

9. In light of the rival submissions, the principal issue which arises for consideration is, whether the learned Labour Court was justified in declining reinstatement despite holding that the retrenchment was in violation of 25F of the 1947 Act, or if the award should be altered to include monetary compensation instead.

10. There is no dispute with respect to the finding recorded by the Labour Court that the termination was effected without compliance of Section 25-F of the Act of 1947 and such non-compliance undoubtedly renders the retrenchment illegal.

11. The principal question emerging in the present case is now settled by a catena of decisions of the Hon'ble Supreme Court is that reinstatement is not an automatic or mechanical consequence of every

breach of Section 25-F. The earlier view, wherein reinstatement was treated as the normal rule, has undergone substantial refinement.

12. The Hon'ble Apex Court in the case of **Jagbir Singh v. Haryana State Agriculture Mktg. Board, (2009) 15 SCC 327**, held as under:-

"7. It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

9. This Court in Uttaranchal Forest Development Corpn. v. M.C. Joshi [(2007) 9 SCC 353 : (2007) 2 SCC (L&S) 813] held that relief of reinstatement with full back wages were not being granted automatically only because it would be lawful to do so and several factors have to be considered, few of them being as to whether the appointment of the workman had been made in terms of statute/rules and the delay in raising the industrial dispute. This Court granted compensation instead of reinstatement although there was violation of Section 6-N of the U.P. Industrial Disputes Act, 1947 (equivalent to Section 25-F of the 1947 Act). This is what this Court said: (SCC p. 356, para 9)

"9. Although according to the learned counsel appearing on behalf of the appellant the Labour Court and the High Court committed an error in arriving at a finding that in terminating the services of the respondent, the provisions of Section 6-N of the U.P. Industrial Disputes Act were contravened, we will proceed on the basis

that the said finding is correct. The question, however, would be as to whether in a situation of this nature, relief of reinstatement in services should have been granted. **It is now well settled by reason of a catena of decisions of this Court that the relief of reinstatement with full back wages would not be granted automatically only because it would be lawful to do so. For the said purpose, several factors are required to be taken into consideration, one of them being as to whether such an appointment had been made in terms of the statutory rules.** Delay in raising an industrial dispute is also a relevant fact.”

10. In State of M.P. v. Lalit Kumar Verma [(2007) 1 SCC 575 : (2007) 1 SCC (L&S) 405] this Court substituted the award of reinstatement by compensation. In yet another decision in M.P. Admn. v. Tribhuban [(2007) 9 SCC 748 : (2008) 1 SCC (L&S) 264] this **Court reversed the High Court's order directing reinstatement with full back wages and instead awarded compensation.** It was opined: (SCC p. 755, paras 12-13)

12. In this case, the Industrial Court exercised its discretionary jurisdiction under Section 11-A of the Industrial Disputes Act. It merely directed the amount of compensation to which the respondent was entitled had the provisions of Section 25-F been complied with should be sufficient to meet the ends of justice. We are not suggesting that the High Court could not interfere with the said order, but the discretionary jurisdiction exercised by the Industrial Court, in our opinion, should have been taken into consideration for determination of the question as to what relief should be granted in the peculiar facts and circumstances of this case. Each case is required to be dealt with in the fact situation obtaining therein.

13. We, therefore, are of the opinion that keeping in view the peculiar facts and circumstances of this case and particularly in view of the fact that the High Court had directed reinstatement with full back wages, we are of

the opinion that interest of justice would be subserved if the appellant herein be directed to pay a sum of Rs 75,000 by way of compensation to the respondent. This appeal is allowed to the aforementioned extent.”

14. It would be, thus, seen that by a **catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily wager who does not hold a post and a permanent employee.”**

(Emphasis Supplied)

13. Again, the Apex Court reiterated the same principle in the case of **Ranbir Singh v. Executive Engineer, PWD, (2021) 14 SCC 815**, where despite finding violation of Section 25-F, reinstatement was declined and lump-sum compensation was awarded. The Court emphasised that relief must be moulded having regard to the nature of employment, duration of service and the passage of time. In a much recent judgment passed in the matter of **Amit Kumar Dubey v. M.P.P.K.V.V. Co. Ltd. & Anr.**, decided on 29.01.2025 in SLP (Civil) No. 20902/2024, the Hon’ble Supreme Court once again cautioned that reinstatement should not be granted as a matter of routine and endorsed the grant of proportionate monetary compensation as a balanced remedy in cases of daily wage engagement.

14. Similarly, Co-ordinate Bench of this Court, in the case of **Giriraj v. Regional Forest Officer & Ors.**, S.B. Civil Writ Petition No.1243/2016 decided on 29.11.2024, followed the same principles,

emphasising that reinstating daily wagers after lengthy litigation does more harm to industrial harmony and justice than good and compensation serves as a practical alternative.

15. Applying the aforesaid dictum to the facts of the present case, it is evident that the petitioner was engaged merely as a daily wager and not through any regular or prescribed selection process. The petitioner's engagement was not against a duly sanctioned post, nor did it confer upon him any substantive or permanent status. The Labour Court has also not recorded any finding of mala fides, unfair labour practice, or victimisation on the part of the employer.

16. Furthermore, a considerable length of time has elapsed since the date of termination, during which the administrative and functional framework of the department may reasonably be presumed to have undergone changes. These cumulative factors assume material significance while moulding the appropriate relief. In such circumstances, directing reinstatement would amount to reintroducing into service a daily wager after prolonged litigation, which the Supreme Court has consistently discouraged.

17. Moreover, it is also well settled that jurisdiction under Articles 226 of the Constitution is supervisory and not appellate and interference is warranted only where the award suffers from perversity, patent illegality, or manifest injustice. However, if the Labour Court grants relief contrary to binding precedents and settled law, interference becomes necessary to prevent miscarriage of justice. For the reasons aforesaid, petitioner's request for reinstatement cannot be granted.

18. Therefore, in the considered opinion of this Court, the Labour Court was correct in not granting reinstatement. However, having regard to the totality of circumstances and in order to balance equities, it would be appropriate to award lump-sum monetary compensation in lieu of reinstatement.

19. Accordingly, while the finding of the Labour Court that the termination was in violation of Section 25-F of the Act of 1947 is affirmed, the relief is modified to the extent that the petitioner shall be entitled to a lump-sum monetary compensation of Rs.3,40,000/- (Rupees Three Lakhs Forty Thousand only) for the period from 01.01.1991 to 18.08.1993, having regard to the nature of his engagement, duration of service and the time elapsed since termination.

20. Furthermore, the respondent No. 2 is directed to pay the said amount within a period of eight weeks from the date of receipt of a certified copy of this judgment; failing which, the amount shall carry interest at the rate of 9% per annum from the expiry of the said period till actual payment.

21. In view of the foregoing discussion, the present writ petition is partly allowed and the award of the tribunal is modified to the extent indicated above.

22. All pending application(s), if any, also stand disposed of. There shall be no order as to costs.

(PRAVEER BHATNAGAR),J

Ramesh Vaishnav/86