

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 8001/2023

Mansingh S/o Shri Mangoliram Gurjar, Aged About 50 Years, R/o
Maylapura, Behind Kotwali, Hindaun City, Distt. Karauli (Raj.)

----Petitioner

Versus

1. Chairman, Nagar Palikas, Hindaun City, Distt. Karauli.
2. Executive Officer, Nagar Palikas, Hindaun City, Distt. Karauli.

----Respondents

For Petitioner(s) : Mr. Vinod Kumar Singhal

For Respondent(s) : Mr. Jinesh Kumar Jain

JUSTICE ANOOP KUMAR DHAND

Order

07/04/2025

1. Instant petition has been filed by the petitioner-workman (hereinafter referred to as 'the workman') challenging the award dated 16.05.2018 passed by the Industrial Tribunal and Labour Court, Bharatpur (hereinafter referred to as 'the Labour Court') in case No: LCR 2738/2015 whereby the termination of services of the workman has been held to be invalid and the respondents-employer (hereinafter referred to as 'employer') has been directed to pay compensation of Rs.25,000/- to the workman in lieu of reinstatement.

2. Brief facts of the case are that the workman in his claim petition filed before the Labour Court averred that he was engaged as daily wager – Safai Jamadar w.e.f. 19.09.1991 till 30.09.1992 but without serving any notice, his services were terminated and he was not paid any amount of compensation. It was pleaded in

the petition that services of the workman were terminated in violation of the provisions of Sections 25-F, 25-G and 25-H of the Act of 1947 of the Industrial Disputes Act, 1947 (hereinafter referred as 'the Act of 1947'). In the claim petition, the workman prayed for declaring his termination as null and void in view of violation of the provisions of Sections 25-F, 25-G and 25-H of the Act of 1947 with the prayer for reinstatement in service.

3. The employer in its reply has denied the averments of the claim petition and submitted that the workman worked less than 240 days in each calendar year and the dispute has been raised after a lapse of long time and there was no violation of the provisions contained under Sections 25-F, 25-G and 25-H of the Act of 1947.

4. After hearing the arguments of both side, the Labour Court came to the conclusion that the workman worked with the employer's establishment w.e.f. 19.09.1991 till 30.09.1992 and his services were terminated in violation of the provisions of Sections 25-F of the Act of 1947, but instead of passing order of reinstatement, lump sum amount of compensation of Rs.25,000/- has been awarded to the workman in lieu of reinstatement vide impugned award dated 16.05.2018.

5. Feeling aggrieved and dissatisfied by the impugned award, the workman approached this Court for modification of the award with the prayer that he is entitled for reinstatement in service with all consequential benefits.

6. Learned counsel for the workman submits that the workman worked with the employer for more than one year i.e. w.e.f. 19.09.1991 till 30.09.1992. Counsel submits that once the

Tribunal came to the conclusion that the termination order of the workman was bad in the eye of law and the same was passed in violation of the provisions contained under Section 25-F of the Act of 1947, then certainly the Labour Court should have passed directions for reinstatement of the workman. Counsel further submits that if reinstatement of the workman is not possible then a suitable amount of compensation be awarded, looking to the length of the service of the workman.

7. Per contra, learned counsel for the employer opposed the arguments raised by the counsel for the workman and submitted that the award passed by the Labour Court is just and proper, which needs no interference of this Court.

8. Heard and considered the submissions made at the Bar and perused the material available on the record.

9. It is settled law, decided by the Hon'ble Apex Court in catena of judgments that if a workman claims that there is a violation of the provisions of Section 25-F of the Act of 1947, and if he proves it before the Court by leading evidence that the employer has violated the provisions contained under Sections 25-F of the Act of 1947, then the Court can pass appropriate orders in this regard for payment of compensation in lieu of reinstatement.

10. As per the recent trend of judgments of Hon'ble Apex Court as well this Court, it has been held in number of cases that even if the termination is found to be illegal, the reinstatement is not a rule of thumb. It has been held that lump-sum amount of compensation can be paid to the workman in lieu of reinstatement.

11. In the case of **BSNL vs. Man Singh (2012) 1 SCC 558**, the Hon'ble Apex Court held that when the termination is set aside because of violation of the provisions of 25F of the I.D Act, it is not necessary that the relief of reinstatement be given as a matter of right.

12. In **Incharge Officer vs. Shankar Shetty (2010) 9 SCC 126**, it was inter alia held that in those cases where the workman had worked on daily wage basis, and worked merely for a period of 240 days or 2-3 years and where the termination had taken place many years ago, the recent trend was to grant compensation in lieu of reinstatement.

13. In **BSNL vs. Bhurumal, reported in (2014) 7 SCC 177**, taking the trend further, the Supreme Court inter alia held as under in para 33 and 34:-

"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 procedural defect, namely in violation of [Section 25-F](#) of the Industrial Disputes Act, this Court is consistent in taking the view 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. 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 (See: [State of Karnataka vs. Uma Devi](#) (2006) 4 SCC 1). 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.”

14. Division Bench of this Court in the case of **Deputy Conservator of Forests vs. Sharfuddin** passed in **D.B. Special Appeal Writ No.700/2018** decided on 20.08.2019 has held para Nos.3 and 4 as under:

“3.We have heard Counsel for the parties. It is contended by the State that the approach of the Courts these days has been to not direct reinstatement but instead grant lump sum compensation; the decision in *The Director, Tiger Project, Sariska, District Alwar Vs. Data Ram & Ors.*- D.B. Special Appeal Writ No.406/2018 and connected cases on 31.07.2018 has been cited. It is contended that in that judgment Court had directed that broadly if someone had worked for a year, the compensation payable would be `1,00,000/-; in the case of two years, it ought to have been `2,00,000/- and in the case of three years and above, it ought to be `3,00,000/-. Counsel for the respondent argued that the labour Court

itself has denied back wages. In these circumstances, the denial of reinstatement would be unfair.

4. Having considered the overall circumstances and the given facts of this case which clearly shows that the workman was in service for one year, in the opinion of this Court, the ends of justice would be served if lump sum compensation to the tune of `2,50,000/- (approximately equivalent to two years back wages) based on minimum wages is given. This amount shall be paid to the respondent within eight weeks from today."

15. Considering the facts and circumstances of the present case and in view of the judgments passed by the Hon'ble Apex Court and the Division Bench of this Court in the case of **Deputy Conservator of Forests & Anr. (supra)**, this Court is of the view that the findings of facts recorded by the Labour Court does not require any interference by this Court. However, considering that the reinstatement is not automatic, this Court deem it just and proper to enhance the award of compensation to the workman in lieu of reinstatement.

16. Looking to the fact that the workman has rendered his services with the employer for a period of more than one year that is w.e.f. 19.09.1991 till 30.09.1992, the amount of compensation of Rs.25,000/- awarded to the workman is inadequate. The workman is entitled to get compensation of Rs.1,00,000/- in lieu of reinstatement.

17. Accordingly, the employer is directed to pay an amount of Rs.1,00,000/- to the workman as compensation in lieu of reinstatement as observed above within a period of three months from the date of receipt of a certified copy of this order after adjusting the amount of Rs.25,000/-. If the amount is not paid to

the workman within the stipulated time i.e. three months, then the workman would be entitled to get interest @ 9% per annum from the date of passing of the award till the date of its actual realization.

18. The award of the Labour Court dated 16.05.2018 stands modified in the above terms.

19. The writ petition is disposed of with the above direction.

20. Stay application and all pending application(s), if any, also stand(s) disposed of.

(ANOOP KUMAR DHAND),J