

**IN THE HIGH COURT OF HIMACHAL PRADESH,  
SHIMLA.**

**CWP NO. 688 Of 2006.**

**Date of decision: May 30,2007.**

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Sub Divisional Officer, HPSEB.

..... Petitioner.

Vs.

Rangi ram and Another.

..... Respondents.

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Coram

**The Hon'ble Mr.Justice Deepak Gupta, Judge.**

**The Hon'ble Mr.Justice Surinder Singh, Judge.**

*Whether approved for reporting? No*

**For the petitioner:** Mr. Shrawan Dogra, Advocate.

**For the respondents:** None

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**Deepak Gupta, J.(Oral).**

Respondent No.1 approached the State for making a reference to the Labour Court. He alleged that he had worked in the Electricity Board from 6.2.1987 till 1999 and his services were illegally terminated. A reference was made by the State and the following issues were framed by the Labour Court:-

- “1. Whether the services of the petitioner has been illegally terminated by the respondent w.e.f. 1.4.1999 without complying the provisions of I.D. Act, 1947? If so, its effect? ...OPP.
2. If Issue No.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled to?...OPP.
3. Whether the petition is bad for non-joinder of necessary parties and is not maintainable? ...OPR
4. Relief.”

Both the parties led evidence. At the time of arguments, as per the record of Labour Court, the learned counsel appearing for the

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*Whether reporters of local Papers may be allowed to see the judgment? Yes.*

petitioner-Board stated that the respondents are willing to accommodate the petitioner, if he reports for duty. A similar statement was made by one Shri Surinder Parkash, Superintendent Grade-II, of the Board, who appeared for the Board before the Labour Court. In view of the statements of the counsel for the Board and the Superintendent Grade-II whereby the Board agreed to re-engage the petitioner anywhere in the Parwanoo Division, the Labour Court passed the impugned order directing the petitioner-Board to re-engage the petitioner as and when he reports for duty. No other claim by the petitioner was entertained, meaning thereby he was not granted any back wages etc.

This order of the Learned Presiding Judge, Labour Court, Shimla has been challenged before us, mainly on the ground that the original counsel had not appeared before the Labour Court. Neither the original counsel nor vice counsel were authorised by the Board to make such a statement before the Labour Court. It is also submitted that Superintendent Grade-II was also not authorised on behalf of the Board to make such a statement. It is further contended by Mr. Shrawan Dogra, learned counsel for the petitioner that the petitioner-Board had a very good case on merits, especially in view of the facts that the respondent had first filed an original application bearing O.A. No. 1606/2002, before the learned Tribunal, which was permitted to be dismissed as withdrawn, without liberty to file any further proceeding. He further submits that there was sufficient material on record to show that the workmen had abandoned his job and also that he never completed 240 days in any calendar year and therefore his termination cannot be termed as retrenchment.

We are afraid that we cannot go into the various points and controversy raised on behalf of the Board. Learned Labour Court has decided the case on the basis of concession recorded by both the parties. He has not decided the case on merits. Therefore, we cannot entertain the arguments raised on merits of the case by Shri Shrawan Dogra.

As regards the contention of the Board that it had not authorised its counsel or the representative to make the statement attributed to them, we are clearly of the view, that the petitioner-Board, in these proceedings cannot be permitted to lay challenge to the authority of the counsel or the representative to make such a statement. We may notice that it is not the case of the Board that such a statement was not made. According to the Board, its counsel and representative did not have the authority to make such a statement. This contention cannot be accepted. The Board chose to appoint its own counsel. It also chose the Superintendent Grade-II to represent it before the Labour Court. The counsel definitely has the authority to act on behalf of the Board. Other than the bald assertion no matter has been placed before us to show why the counsel did not have the authority to make such a statement. The Board, or for that matter any other litigant, cannot challenge the authority of its counsel or the representative authorised by it to appear before any judicial or quasi judicial authority. The Courts act on the statement of counsel and it is for the litigant to ensure that the counsel does not exceed its authority. If according to the Board the counsel or the representative have exceeded its authority, then the Board can take action against the counsel or the representative. However, the Board cannot get the order of the Labour Court set-aside on account of the fault of its counsel and representative.

We, therefore, find no merits in the petition, which is rejected. We would however like to make it clear that as held by us above, the present case has been decided solely on the basis of the concession given by the counsel and representative of the Board. Therefore, it is clear that the judgment of the Labour Court in this case cannot be treated as a precedent and no person can claim similar relief only on the basis of this order passed by the Labour Court.

**(Deepak Gupta)**  
**Judge.**

May 30, 2007.  
(Pds)

**(Surinder Singh)**  
**Judge.**