

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH.**

CWP No.14667 of 2006  
Date of decision: 31.8.2007

Haryana Urban Development Authority, Ambala

-----Petitioner

Vs.

Presiding Officer, Labour Court, Ambala and another

-----Respondents

**CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL**

**HON'BLE MR JUSTICE S.D.ANAND**

Present: Mr. Ajay Nara, Advocate for the petitioner.  
Mr. Brijender Kaushik, Advocate for the respondent-  
workman.

**JUDGMENT:**

This petition has been filed against award of the Labour Court dated 5.5.2006, Annexure P.4, directing reinstatement of the workman with all consequential benefits.

Claim of the workman was that he was appointed on daily wages on 13.9.1993 and his services were terminated on 8.7.1999 in violation of section 25-F of the Industrial Disputes Act, 1947 (for short, 'the Act').

The claim was contested by submitting that the workman continued in service on account of stay order granted by the High Court in CWP No.17045 of 1995 (**Rupinder Kaur v. HUDA and others**), which was set aside by the Hon'ble Supreme Court in SLP (C) No.16473 of 1996 (**HUDA v. Rupinder Kaur**)

and when the order of the Hon'ble Supreme Court came to notice, services of the workman were held to have come to an end.

The Labour Court held that the workman having completed 240 days of service, the termination being in violation of section 25-F of the Act, he was entitled to reinstatement with back wages.

This Court vide order dated 14.9.2006 issued notice, only confined to the issue of back wages.

In **General Manager, Haryana Roadways v. Rudhan Singh**, (2005) 5 SCC 591, para 8, it was observed that there was no rule of thumb that in every case where Industrial Tribunal gave a finding that termination was in violation of Section 25-F of the Act, entire back wages should be awarded. Factors like method of selection, nature of appointment etc. should be weighed and balanced. One of the important factors was the length of service, which had been rendered. In **Allahabad Jal Sansthan v. Daya Shankar Rai and another**, (2005) 5 SCC 124, para 6, it was held that Labour Court is entitled to grant relief having regard to facts and circumstances of each case. In para 16, it was noticed that earlier decisions of the Hon'ble Supreme Court taking the view that on dismissal being set aside, reinstatement with back wages must follow, could not be followed and it was necessary to develop a pragmatic approach by arriving at a golden mean. In **UP**

**State Brassware Corpn.Ltd and another v. Uday Narain**

**Pandey**, (2006) 1 SCC 479, para 22, it was observed that no precise formula can be laid down as to when full back wages should be allowed and back wages should not be granted mechanically. In para 43, changes brought about by decisions of the Hon'ble Supreme Court in the wake of prevailing market economy, globalisation, privatisation and outsourcing were noticed. Reference was also made to judgment in **Rattan Singh v. Union of India and another**, (1997) 11 SCC 396, Para 3, wherein consolidated compensation of Rs.25000/- was awarded instead of back wages and reinstatement.

Moreover, it has been held in In **Municipal Council, Samrala v. Raj Kumar**, (2006) 3 SCC 81 that services of an employee appointed on contract basis can be terminated at any time and Section 25-F of the Act is not attracted to such a situation.

In **Gangadhar Pillai v. Siemens Ltd.**, (2007) 1 SCC 533, it was observed that if an employee is reinstated, for violation of Section 25-F of the Act, he gets back the same status where he was prior to termination.

In **Madhyamik Shiksha Parishad, U.P. v. Anil Kumar Mishra**, (2005) 5 SCC 122, it was observed that in the case of ad hoc service, provisions of Section 25-F of the Act will not be attracted.

In **State of UP v. Neeraj Awasthi** (2006) 1 SCC 667, it was observed that in absence of a sanctioned post, there is no legal right to continue in service.

In **Reserve Bank of India v. Gopinath Sharma and Another**, (2006)6 Supreme Court Cases 221 ,it was observed that mere rendering of 240 days of service did not confer any right to continue in service.

In above circumstances, we set aside the impugned award to the extent of back wages. Since the notice was confined only to back wages, we do not express any opinion about the order of reinstatement but it is clear that the status of the workman on reinstatement will be the same as he had prior to the order of termination.

The writ petition is disposed of accordingly.

(Adarsh Kumar Goel)  
Judge

August 31, 2007  
'gs'

(S.D.Anand)  
Judge