

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL
Writ Petition No. 112 of 2008 (S/S)

Ravindra Kumar Sharma
S/o Sri Mukund Lal Sharma Petitioner

Versus

Regional Sericultural Research Station
Central Silk Board
Through its Deputy Director
District Dehradun Respondent

Sri Ramji Srivasatava, Advocate for the petitioner.
Mr. Vikas Pande, Advocate for the respondent.

Hon'ble Tarun Agarwala, J.

The petitioner's services was terminated on 7th November, 1987. The petitioner, being aggrieved, raised an industrial dispute which was referred to the Industrial Tribunal. The Industrial Tribunal gave an award directing reinstatement with full backwages. The respondent employer challenged the said award by filing a Writ Petition No. 182 (M/S) of 2001 before this Court which was decided by a judgment dated 29th July, 2007 affirming the award in so far as reinstatement of the petitioner was concerned but modified the backwages from full backwages to 50% backwages. Based on the aforesaid order of the Court, the petitioner was reinstated in service.

It transpires that the Regional Sericulture Research Station Centre Silk Board issued a circular dated 15th October, 1992 granting time scale to casual labourer who had completed five years of service as on 1st September, 1992. Based on the circular, the petitioner contends that he is entitled for 50% of the

backwages in terms of the circular dated 15th October, 1992 and the same has not been paid to the petitioner and has been granted time scale w.e.f. 16th October, 2007. The petitioner has accordingly prayed in the present writ petition that 50% of the backwages as directed by the Court by its judgment dated 29th July, 2005 be calculated as per the circular of the Board dated 15th October, 1992.

If the award of the Industrial Court as modified by the High Court is to be implemented, the appropriate remedy is to enforce the award by filing the appropriate application before the authority concerned u/S 33C (1) of the Industrial Disputes Act or 6-H (1) of the U.P. Industrial Disputes Act. If certain benefits is required to be paid pursuant to an award and it is not a mere calculation but an adjudication of some benefit, it would be open to the petitioner to file an application before the appropriate Labour Court u/S 33C (2) or u/S 33 of the Industrial Disputes Act and 6-H (2) of the U.P. Industrial Disputes Act. Such factual controversy with regard to the calculation of the arrears of wages cannot be adjudicated in a writ forum. Consequently, the writ petition is dismissed and it would be open to the petitioner to seek his remedy in an appropriate forum as stated aforesaid.

(Tarun Agarwala, J.)

Dated 31st July, 2012

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