

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: April 30, 2015

1. Civil Writ Petition No.8080 of 2012

The Director General, Food & Supplies, Sector 17, Chandigarh & others

...Petitioners

Versus

Subhash & another

...Respondents

2. Civil Writ Petition No.2852 of 2012

Subash

...Petitioner

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Hitesh Pandit, Addl.A.G.Haryana,
for the petitioners (in CWP No.8080 of 2012) &
for respondent Nos.2 to 4 (in CWP No.2852 of 2012).

Mr.Sandeep Singh Jattan, Advocate,
for respondent No.1 (in CWP No.8080 of 2012) &
for the petitioner in CWP No.2852 of 2012.

AMIT RAWAL, J. (Oral)

By this common order, I intend to dispose of two Civil Writ

Petition Nos.8080 and 2852 of 2012 as question of law and facts involved in both the writ petition is the same.

Civil Writ Petition No.8080 of 2012 has been filed by the Management for quashing of the award dated 12.7.2011 (Annexure P-6), whereby the petitioner has been ordered to be reinstated, whereas Civil Writ Petition No.2852 of 2012 has been filed by the workman for modification of the award, whereby the Labour Court while ordering reinstatement into service has declined the relief of back wages.

It is a matter of record that workman-respondent No.1 was appointed in the year 2001 as Chowkidar and his services were allegedly terminated in 2005. During the course of the proceedings before the Labour Court, it has come on record that the persons junior to the respondent-workman have been retained in service and, therefore, the Labour Court has found that the workman is entitled to reinstatement into service. Not only this, even there is a categoric finding that the Management failed to discharge the stand of alleged absence from duty by holding an enquiry or serving any charge sheet and, thus, the Labour Court has found that there is a clear cut violation of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (for short “the Act”).

Since the workman has not made any averment qua the factum that he was not gainfully employed during the period he remained out of service, in view of the ratio decidendi culled out by the Hon'ble Supreme Court in Deepali Gundu Surwase Versus Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) and others, (2013) 10 SCC 324, the workman is not entitled to back wages. Accordingly, CWP No.2852 of 2012 is

dismissed.

The Finding of the Labour Court qua violation of provisions of Sections 25-F and 25-G of the Act has not been rebutted by the Management before the Labour Court. Thus, there is no merit in CWP No.8080 of 2012 as there is a categoric finding of violation of provisions of Sections 25-F and 25-G of the Act. Accordingly, the award of the Labour Court is upheld and CWP No.8080 of 2012 is also dismissed.

**April 30, 2015
ramesh**

**(AMIT RAWAL)
JUDGE**