

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

1.

Civil Writ Petition No.1003 of 2003
Date of Decision: July 31, 2019
- Bhakra Beas Management Board

...Petitioner
- Versus
- Ranbir Singh and another

...Respondents
2.

Civil Writ Petition No.7747 of 2005
- Bhakra Beas Management Board and another

...Petitioners
- Versus
- Narata Ram and others

...Respondents
3.

Civil Writ Petition No.2642 of 2001
- Bhakra Beas Management Board and another

...Petitioners
- Versus
- Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court,
Chandigarh and another

...Respondents
4.

Civil Writ Petition No.353 of 2002
- Sukhdev Singh

...Petitioner
- Versus
- Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court,
Chandigarh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present:

Ms. Nimrata Shergil, Advocate
for the petitioner (in CWP No.1003 of 2003).

Mr. Kuldeep Tiwari, Advocate
for the petitioners
(in CWP Nos.7747 of 2005 and 2642 of 2001).

Mr. Madan Mohan, Advocate
for the petitioner (in CWP No.353 of 2002)
for respondent No.1-Ranbir Singh (in CWP No.1003 of 2003)
for respondent No.2-Sukhdev Singh
(in CWP No.2642 of 2001).

CWP No.1003 of 2003
CWP No.7747 of 2005
CWP No.2642 of 2001
CWP No.353 of 2002

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AUGUSTINE GEORGE MASI, J.

Three writ petitions i.e. *CWP No.1003 of 2003* titled as *Bhakra Beas Management Board Versus Ranbir Singh and another*, *CWP No.7747 of 2015* titled as *Bhakra Beas Management Board and another Versus Narata Ram and another* and *CWP No.2642 of 2001* titled as *Bhakra Beas Management Board and another Versus Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court, Chandigarh and another* have been filed by BBMB, challenging the awards passed on various dates by the Industrial Tribunal-cum-Labour Court, Chandigarh, whereas in *CWP No.353 of 2002* titled as *Sukhdev Singh Versus Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court, Chandigarh and another*, the award challenged by BBMB in *CWP No.2642 of 2001* has been challenged by workman-Sukhdev Singh on the ground that he has wrongly been denied the back wages, although he has been given the benefit of reinstatement in service from the date of his termination with continuity of service.

2. In all these writ petitions, the facts are not in dispute that the workmen had completed more than 240 days in a calendar year. The issue which has been raised by the counsel for the petitioner-management is that in pursuance to the directions issued by the Himachal Pradesh High Court in *CWP No.27 of 1988* titled as *Ram Pyari widow and others Versus the Bhakra Beas Management Board*, a welfare policy dated 08.07.1988 was formulated with regard to employment of workers on daily wage basis,

cadre/casual register and seniority list thereof. The seniority register of the daily wage workers was to be prepared and maintained at Divisional/ Sub Divisional and Sectional level separately. This policy came into force on 01.08.1988. This is apparent from the Division Bench judgment of this Court in *Lachhman Dass and others Versus Bhakra Beas Management Board and others 1991 (4) SLR 772* which judgment has been upheld by the Full Bench judgment of this Court in *CWP No.1950 of 2002* titled as *Joginder Singh Versus the Presiding Officer-cum-Industrial Tribunal Labour Court and another* decided on 31.07.2007. The Division Bench of this Court in Lachhman Dass's case has held that prior to 01.08.1988, the Chief Engineer was the employer as per the certified standing orders but thereafter the Executive Engineer i.e. the divisional head has been made the officer incharge of his respective division and as such the Executive Engineer is the employer of the workman and, therefore, he alone is the person, who would make appointments of daily rated workers in their respective divisions.

3. In view of the above, it is apparent that all terminations which had taken place prior to 01.08.1988 after coming into force of the policy dated 08.07.1988, would not be affected by the policy as the same would not be applicable to them. What it means is that irrespective of the division in which a workman would be performing his duties, the Chief Engineer being the appointing authority as per the prevalent certified standing orders, the period spent in various divisions would be taken into consideration for

Any appointment or termination which has taken place after 01.08.1988 would obviously be governed by the policy instructions dated 08.07.1988.

4. With this principle having been settled, the writ petitions, where the awards have been challenged pertaining to workmen, whose services have been terminated prior to 01.08.1988, would have to be dismissed as admittedly, in all these cases the workman had completed more than 240 days in a calendar year immediately preceding their date of termination i.e. *CWP No.1003 of 2003* titled as *Bhakra Beas Management Board Versus Ranbir Singh and another*, wherein challenge is to the award dated 31.07.2002 by the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh, where the date of termination of respondent No.1-Ranbir Singh is 31.10.1987 and he admittedly had completed 247 days in a calendar year preceding his termination. So it has no merit and invites dismissal.

5. Similar would be the position in *CWP No.2642 of 2001* titled as *Bhakra Beas Management Board and another Versus Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court, Chandigarh and another*, wherein challenge is to the award dated 23.12.1999, where workman-Sukhdev Singh was appointed on 02.01.1986 and his services were terminated in November 1986. This petition also deserves dismissal.

Sukhdev Singh-workman has also challenged this very award dated 23.12.1999 by filing CWP No.353 of 2002, challenging therein the denial of back wages, although he has been held entitled to reinstatement in

that conclusions and the reasoning given in the impugned award is not sustainable qua these aspects, especially when it has been found that the mandatory provisions of the Industrial Disputes Act had not been followed. It has been asserted that there is nothing on the record to indicate that he had been gainfully employed but still, he has been denied the back wages.

This contention is not acceptable in the light of the specific findings returned by the Industrial Tribunal-cum-Labour Court that the workman had been gainfully employed as he had been making repayment of the loan amount from his own sources, which indicated that he was not unemployed during this period. The award, therefore, on this count, is upheld and this writ petition also stands dismissed.

6. Now coming to *CWP No.7747 of 2015* titled as *Bhakra Beas Management Board and another Versus Narata Ram and another*. In this case, challenge is to the award dated 22.09.2004 passed by the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh, where the workman-respondent No.1 was employed on daily basis as a *Majdur* on 10.02.1989 in the Building Construction and Township Division, BBMB, Nangal and continued up to 10.06.1989. Thereafter he was engaged with Nangal Dam Division BBMB Nangal as Special Watch and Ward on Nangal Hydel Channel during monsoon from July 1989 to November 1989. From December 1989 to January 1990, respondent-workman was deployed to work against special work testing and sand grouting behind lining of NHC from RD 168318 to 187000 and RD 189200 and 200337 and against

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Nakian escape and continued in service up to 31.01.1990. If we put it as per the policy, what would turn out is that he had performed his duties during this period not in one division but in two divisions separately, one with the Building Construction and Township Division from 10.02.1989 till 10.06.1989 and the other with the Nangal Dam Division from July 1989 till end of January 1990. As per the policy which is applicable i.e. 08.07.1988 w.e.f. 01.08.1988, the period for which he had been engaged with two different divisions cannot be clubbed up for the purposes of counting 240 days in a calendar year preceding his termination. The Full Bench judgment of this Court in Joginder Singh's case (*supra*) would apply with full force and would hit the impugned award.

7. In view of the above facts, the impugned award dated 22.09.2004 passed by the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh, cannot sustain and deserves to be set aside. Ordered accordingly.

8. It is, thus, ordered in conclusion that CWP Nos.1003 of 2003, 2642 of 2001 and 353 of 2002 are hereby dismissed and CWP No.7747 of 2005 is allowed.

July 31, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: Yes