

A

STATE OF HARYANA

v.

DILBAGH SINGH

OCTOBER 18, 2006

B

[A.K. MATHUR AND LOKESHWAR SINGH PANTA, JJ.]

*Industrial Disputes Act, 1947:*

C

*ss. 25-G and 25-H—Workman—Termination of services, but his juniors retained in service—Tribunal holding that there being violation of provisions of ss.25-G and 25-H, workman would be reinstated with continuity of service and 50% back wages from the date of demand notice—Held, the finding of Tribunal has not been controverted by the Management and there is no reason to take a different view, from that of the Tribunal which has been affirmed by High Court—Workman will be reinstated, but in view of peculiar facts and circumstances, he will not be entitled to any back wages.*

D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3443 of 2006.

E

From the Judgment and final Order dated 28.4.2005 of the High Court of Punjab and Haryana at Chandigarh in C.W.P. No. 6550/2005.

Manjit Singh, A.A.G., Harikesh Singh and T.V. George for the Appellant.

F

Anil Hooda, Dr. Sushil Balwada, Ram Kishore Singh Yadav, Kaushal Yadav, Harinder Mohan Singh for the Respondent.

The Order of the Court was delivered by

O R D E R

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This appeal is directed against the order passed by the Division Bench of the High Court dated 28.04.2005 whereby the Division Bench has confirmed the award given by the Labour Court.

The respondent was serving as a Beldar in PWD (B & R) and his services were terminated on 25.12.1999. A dispute under the Industrial

H

Disputes Act, 1947 (hereinafter to be referred to as the 'Act') was raised and the matter was referred to Labour Court and the Labour Court after hearing both the parties found that there is a breach of Sections 25-G and 25-H of the Act. It was held that person junior to the respondent is still working whereas the services of the respondent had been terminated. Therefore, the Labour Court allowed the claim of the respondent and granted reinstatement with continuity of service with 50% back wages from the date of demand notice i.e. from 1.2.2000. Aggrieved against that order a writ petition was filed before the High Court and the High Court affirmed the order of the Labour Court. Hence, the present appeal.

We have heard learned counsel for the parties. Learned counsel for the appellant has failed to substantiate that no person junior to the respondent had been retained in the Department. It is a clear finding of the Tribunal that a person like Krishan s/o Dharam Singh who is junior to the respondent is still working with the Management whereas the services of the respondent had been terminated. It is also alleged that another person named Mahabir who is also junior to the respondent is still working with the Management. Therefore, the Tribunal has found violation of Sections 25-G & 25-H of the Act. This finding of fact has not been controverted by the management and there is no reason to take a different view from the view taken by the Tribunal which was affirmed by the High Court. Hence, we find no merit in this appeal and the same is accordingly dismissed. The respondent shall be reinstated but looking into the peculiar facts and circumstances of this case, he will not be entitled to any back wages. The appellant shall issue order of appointment of the respondent within one month from the date of receipt of this order. There will be no order as to costs.

R.P.

Appeal dismissed. F