



**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE**

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 10th OF MARCH, 2025

WRIT PETITION No. 8540 of 2025

HRIDESH SINGH YADAV

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Pallav Tripathi – Advocate for petitioner.

Shri S.S. Kushwaha – Government Advocate for respondent/State.

ORDER

This petition, under Article 226 of Constitution of India, has been filed seeking the following relief (s):

- (i) That, the order impugned Annexure-P/1 may kindly be Quashed.
- (ii) That, the respondent department may kindly be directed to re-instate the petitioner in service with all consequential benefits.

Any other relief which this Hon'ble Court deems fit in the facts and circumstances of the case.

2. It is submitted by counsel for petitioner that petitioner was appointed as daily wager on 07.11.2015 in the office of Jila Panchayat, Bhind. On 07.10.2016, petitioner made an application for conferral of status of Sthai Karmi. However, he was discontinued with effect from 01.09.2017. Petitioner raised an industrial



dispute before the Labour Court which was registered as Case No.15/A/I.D. Act/2018 (Reference) which was disposed of by Award dated 21.06.2022 passed by Labour Court No.2, Gwalior (M.P.) and it was held that termination of services of petitioner in violation of Section 25F of Industrial Disputes Act, 1947 is bad in law as no retrenchment compensation was paid. However, instead of directing for reinstatement, the Labour Court directed for payment of compensation of Rs.One Lac.

3. Challenging the order of grant of compensation in lieu of reinstatement, it is submitted by counsel for petitioner that once the termination of services of petitioner was found to be illegal, then the Labour Court should have directed for reinstatement, instead of granting compensation in lieu of reinstatement.

4. Heard learned counsel for petitioner.

5. The moot question for consideration is as to whether the Labour Court committed any illegality by directing for compensation in lieu of reinstatement or not?

The Supreme Court in the case of **Bharat Sanchar Nigam Limited Vs. Bhurumal**, reported in **(2014) 7 SCC 177** has held as under:

"33. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or mala fide and/or by way of victimisation, unfair labour practice, etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view that in such cases reinstatement with back wages is not automatic and instead the workman should be given mone compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious."



The Supreme Court in the case of **Jayant Vasantrao Hiwarkar Vs. Anoop Ganaptrao Bobde**, reported in (2017) 11 SCC 244 has upheld the grant of compensation in lieu of reinstatement as the respondent had merely worked for a period of one year.

The Supreme Court in the case **Hari Nandan Prasad and Another Vs. Employer I/R to Management of Food Corporation of India and Another**, reported in (2014) 7 SCC 190 has held as under:-

"19. The following passages from the said judgment would reflect the earlier decisions of this Court on the question of reinstatement: (BSNL case, SCC pp. 187-88, paras 29-30)

"29. The learned counsel for the appellant referred to two judgments wherein this Court granted compensation instead of reinstatement. In BSNL v. Man Singh, this Court has held that when the termination is set aside because of violation of Section 25-F of the Industrial Disputes Act, it is not necessary that relief of reinstatement be also given as a matter of right. In Incharge Officer v. Shankar Shetty, it was held that those cases where the workman had worked on daily-wage basis, and worked merely for a period of 240 days or 2 to 3 years and where the termination had taken place many years ago, the recent trend was to grant compensation in lieu of reinstatement.

30. In this judgment of Shankar Shetty, this trend was reiterated by referring to various judgments, as is clear from the following discussion: (SCC pp. 127-28, paras 2-4) '2. Should an order of reinstatement automatically follow in a case where the engagement of a daily-wager has been brought to an end in violation of Section 25-F of the Industrial Disputes Act, 1947 (for short "the ID Act")? The course of the decisions of this Court in recent years has been uniform on the above question. 3. In Jagbir Singh v. Haryana State Agriculture Mktg. Board, delivering the judgment of this Court, one of us (R.M. Lodha, J.) noticed some of the recent decisions of this Court, namely, U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey, Uttaranchal Forest Development Corpn. v. M.C. Joshi State of M.P. v. Lalit Kumar Verma M.P. Admn. v. Tribhuban, Sita Ram Moti Lal Nehru Farmers Training Institute, Jaipur Development Authority v.



Ramsahai, GDA v. Ashok Kumar Mahboob Deepak v. Nagar Panchayat, Gajraula and stated as follows: (Jagbir Singh case, SCC pp. 330 & 335, paras 7 & 14) “7. It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, i recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.* * * 14. It would be, thus, seen that by a catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily-wagers has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a dail wager who does not hold a post and a permanent employee.” 4. Jagbir Singh has been applied very recently in Telegraph Deptt. v. Santosh Kumar Seal, wherein this Court stated: (SCC p. 777, para 11) 11. In view of the aforesaid legal position and the fact that the workmen were engaged as daily-wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monetary compensation would subserve the ends of justice.” * * * * 21. We make it clear that reference to Umadevi, in the aforesaid discussion is in a situation where the dispute referred pertained to termination alone. Going by the principles carved out above, had it been a case where the issue is limited only to the validity of termination, Appellant 1 would not be entitled to reinstatement....."

The Supreme Court in the case of **O.P. Bhandari Vs. Indian Tourism Development Corporation Limited and others**, (1986) 4 SCC 337 has held as



under :

“6. Time is now ripe to turn to the next question as to whether it is obligatory to direct reinstatement when the concerned regulation is found to be void. In the sphere of employer-employee relations in public sector undertakings, to which Article 12 of the Constitution of India is attracted, it cannot be posited that reinstatement must invariably follow as a consequence of holding that an order of termination of service of an employee is void. No doubt in regard to “blue collar” workmen and “white collar” employees other than those belonging to the managerial or similar high level cadre, reinstatement would be a rule, and compensation in lieu thereof a rare exception. Insofar as the high level managerial cadre is concerned, the matter deserves to be viewed from an altogether different perspective - a larger perspective which must take into account the demands of National Interest and the resultant compulsion to ensure the success of the public sector in its competitive co the private sector. The fulfil its life aim or successfully vie with the private sector if it is not managed by capable and efficient personnel with unimpeachable integrity and the requisite vision, who enjoy the fullest confidence of the “policy makers” of such undertakings. Then and then only can the public sector undertaking achieve the goals of (1) maximum production for the benefit of the community, (2) social justice for workers, consumers and the people, and (3) reasonable return on the public funds invested in the undertaking. 7. It is in public interest that such undertakings or their Boards of Directors are not compelled and obliged to entrust their managements to personnel in whom, on reasonable grounds, they have no trust or faith and with whom they are in a bona fide manner unable to function harmoniously as a team working arm- in- arm with success in the aforesaid threethree dimensional sence as theri common goal. These factors have to be taken into account by the court at the time of passing the consequential order, for the court has full discretion in the matter of granting relief, and the court can sculature the relief to suit the needs of the matter at hand. The court, if satisfied that ends of justice so demand, can certainly direct that the employer shall have the option not to reinstate provided the employer compensation as indicated by the court.”



Thus, it is clear from the law laid down by the Supreme Court that compensation in lieu of reinstatement is the proper relief and merely because the termination was declared illegal it would not automatically result in reinstatement. Furthermore, petitioner had worked only for less than two years and Labour Court has awarded compensation of Rs.One Lac in lieu of reinstatement. By no stretch of imagination, said direction can be said to be contrary to law.

6. Consequently, petition fails and is hereby *dismissed*.

(G.S. Ahluwalia)
Judge