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

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**CWP-22140-2026(O&M)
Date of Decision: 27.07.2026**

MAHESH SINGH

... Petitioner

VS

LABOUR COMMISSIONER, HARYANA AND ANR.

... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Anil K. Sokal, Advocate
for the petitioner.

KIRTI SINGH, J. (ORAL)

1) The present writ petition under Articles 226/227 of the Constitution of India has been filed praying for issuance of a writ in the nature of certiorari for setting aside order dated 19.11.2024 (Annexure P-1) passed by the Labour Commissioner, Haryana, whereby the application filed by respondent No.2-M/s Bellsonica Auto Component India Pvt. Ltd. under Section 33(2)(b) of the Industrial Disputes Act, 1947 (for short, 'the Act'), seeking approval of the petitioner's dismissal from service, was allowed; and for consequential reinstatement with back wages and continuity of service.

2) The facts, briefly stated, are that the petitioner joined respondent No.2-Management in the year 2011, initially through a contractor, and was later made permanent; admittedly, no complaint was



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received against him regarding his work performance between 2011 to 2021. The petitioner was also a member of the Bellsonica Auto Component India Employees Union, whose registration came to be cancelled by the Registrar, Trade Unions, Haryana, vide order dated 23.09.2023, on the ground that it had enrolled a contractual workman as an ordinary member in violation of the Trade Unions Act, 1926 and its own rules. A chargesheet dated 17.05.2022 was issued to the petitioner alleging submission of fake educational documents at the time of recruitment; it is the petitioner's case that similar chargesheets were issued to about 50 other workmen on the same allegation. A domestic inquiry was constituted, and Sh. Virender Singh, Advocate, was appointed as Inquiry Officer vide letter dated 29.06.2022. During the inquiry, the petitioner sought recruitment-related criteria/policy documents vide letter dated 16.07.2022, which were not furnished by the Management. The petitioner places reliance on a communication of the Assistant Labour Commissioner, Circle-6, Gurugram, dated 13.05.2023, recording that no documents were sought from workmen at the time of recruitment regarding their qualifications. The Inquiry Officer, however, submitted his report dated 16.08.2022 holding all the charges proved. A show cause notice dated 08.01.2024 proposing dismissal was thereafter issued, to which the petitioner replied on 12.01.2024 denying the charges and alleging bias; the petitioner was dismissed from service vide order dated 07.06.2024, along with a full and final settlement of even date. On the same date, respondent No.2 filed the application under Section 33(2)(b) of the Act before the Labour Commissioner, Haryana, citing the



pendency of a general demand notice as the subsisting industrial dispute necessitating such approval. The petitioner filed his reply dated 29.08.2024 before the Labour Commissioner, inter alia contending that the application ought to have been made under Section 33(1)(b) in view of pending general demand notices dated 05.08.2021, 12.11.2021 and 01.04.2022 and a tripartite settlement dated 01.06.2023 providing for reinstatement of certain dismissed workmen, and that the domestic inquiry was conducted in violation of the principles of natural justice. Vide the impugned order dated 19.11.2024, the Labour Commissioner allowed the application and approved the dismissal, holding, inter alia, that the domestic inquiry was fair and proper and satisfied the guidelines in **Sur Enamel and Stamping Works Ltd. v. Workmen, 2008-LLR-619 (SC)**, that the three conditions under the proviso to Section 33(2)(b)-namely, action of dismissal, payment of one month's wages, and filing of the approval application-stood duly satisfied on the record, and that the petitioner's objection regarding applicability of Section 33(1)(b) was misplaced, the application having been correctly filed under Section 33(2)(b).

3) Learned counsel for the petitioner assails the impugned order on the following grounds: firstly, that the domestic inquiry was vitiated for want of natural justice, inasmuch as the Management failed to produce the recruitment criteria/policy documents sought by the petitioner, and the report of the Assistant Labour Commissioner dated 13.05.2023, recording that no documents were sought from workmen at the time of recruitment, renders the very charge of 'fake documents' inherently untenable; secondly, that the



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petitioner's dismissal was directly connected with pending general demand notices and ongoing union activities, and the application ought to have been made under Section 33(1)(b), and not Section 33(2)(b), of the Act; thirdly, that the Labour Commissioner failed to take cognizance of the tripartite settlement dated 01.06.2023 arrived at under Section 12(3) of the Act, providing for reinstatement of dismissed workmen; fourthly, that there was an unexplained delay of about twenty-two months between the inquiry report dated 16.08.2022 and the dismissal order dated 07.06.2024, during which period the petitioner was allegedly pressured to resign or accept a Voluntary Retirement Scheme, consistent with a pattern of similar dismissals of other workmen on the same 'fake document' charge; and lastly, that the mandatory conditions under the proviso to Section 33(2)(b) and the Model Standing Orders were not properly complied with, and that the punishment of dismissal is, in any event, disproportionate to the alleged misconduct. In support of these submissions, learned counsel places reliance upon **Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. v. Ram Gopal Sharma, (2002) 2 SCC 244; Lalla Ram v. D.C.M. Chemical Works Ltd., (1978) 3 SCC 1; and Jitendra Singh Rathor v. Shree Baidyanath Ayurved Bhawan Ltd., AIR (1984) SC 976.**

4) I have heard learned counsel for the petitioner and perused the relevant material on record.

5) Taking up the question of maintainability first, the impugned order has been passed by the Competent Authority in exercise of jurisdiction under Section 33(2)(b) of the Act, proceedings whereunder are of a limited



and summary nature, confined to examining whether a proper domestic enquiry has been held, whether a prima facie case for dismissal is made out, and whether the conditions of the proviso have been complied with; such approval does not amount to an adjudication upon the legality of the dismissal on merits. The Act provides a complete and efficacious statutory mechanism for redressal: by virtue of Section 2A, an individual dispute relating to dismissal is deemed to be an industrial dispute capable of adjudication by the Labour Court/Industrial Tribunal, and where, as here, approval has been granted under Section 33(2)(b), the workman is entitled to invoke Section 33-A before the very authority before which the underlying dispute is pending, as explained in **Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. (supra)**. While the availability of an alternative remedy is not an absolute bar to the exercise of jurisdiction under Article 226 but only a self-imposed restriction which this Court ordinarily observes save where the writ is founded on enforcement of a fundamental right, violation of the principles of natural justice, or an order wholly without jurisdiction or under a vires challenge, as explained in **Whirlpool Corporation v. Registrar of Trade Marks, Mumbai, (1998) 8 SCC 1**, none of these exceptions is attracted on the facts of the present case, and no other exceptional circumstance has been pleaded or demonstrated warranting a deviation from the rule of exhaustion of statutory remedies.

6) That apart, even on a prima facie view of the record, and without in any manner foreclosing the fuller examination that the Labour Court/Industrial Tribunal alone is competent to undertake on evidence, none



of the grounds urged appears, at this stage, to make out a case warranting interference. On the conduct of the domestic inquiry, the impugned order records, upon an examination of the guidelines in **Sur Enamel and Stamping Works Ltd. (supra)**, that the petitioner was duly informed of the charges, that management witnesses were examined and cross-examined in his presence, and that he was afforded opportunity to lead his own evidence; the plea of bias founded on non-supply of recruitment-related documents and the Assistant Labour Commissioner's communication dated 13.05.2023, while a matter meriting serious consideration, is more appropriately examined by the Labour Court upon evidence rather than in summary writ proceedings against an order passed under Section 33(2)(b). On the question of applicability of Section 33(1)(b) as opposed to Section 33(2)(b), the impugned order records a specific finding that the application was correctly filed under Section 33(2)(b); whether the general demand notices and the tripartite settlement dated 01.06.2023 relied upon by the petitioner in fact constituted a subsisting industrial dispute connected with his individual dismissal, so as to attract Section 33(1)(b) instead, is a mixed question of fact and law that the Labour Court/Industrial Tribunal is best placed to examine upon evidence. On compliance with the proviso to Section 33(2)(b), the record shows that the action of dismissal, the payment of one month's wages along with full and final dues, and the filing of the approval application, were all effected on 07.06.2024, and this finding of simultaneity has not been shown to be perverse.

7) The claim of an unexplained delay between the inquiry report



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and the dismissal order, the allegation of pressure to opt for a Voluntary Retirement Scheme, and the claim of a broader pattern of similar dismissals of other workmen, are all factual matters requiring appreciation of evidence and are not capable of being conclusively resolved on the face of the impugned order in writ jurisdiction. As to proportionality, given that the charge of submission of fake educational documents at the time of recruitment stood proved in the domestic inquiry, the punishment of dismissal does not, prima facie, appear so shockingly disproportionate as to itself evidence mala fides, though this too remains open for assessment by the Labour Court under the principles explained in **Jitendra Singh Rathor (supra)**.

8) These observations are made only for the limited purpose of considering whether interference under Articles 226/227 is called for at this stage, and shall not preclude the petitioner from agitating any of these issues on merits, and on evidence, before the Labour Court/Industrial Tribunal, which shall decide the same uninfluenced by anything said herein.

9) Accordingly, this Court is not inclined to entertain the present writ petition. The same is dismissed as not maintainable at this stage; the petitioner is at liberty to avail the appropriate statutory remedy available under Sections 2A and/or 33-A of the Industrial Disputes Act, 1947, as may be advised.

10) It is, however, clarified that this Court has expressed no final opinion on the merits of the controversy, and all questions, factual and legal, are left open to be urged before the competent Labour Court/Industrial



Tribunal.

11) Pending miscellaneous application(s), if any, also stand disposed of.

(KIRTI SINGH)
JUDGE

27.07.2026
SwarnjitS

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No