

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.18682 of 1995

Date of Decision: 21.12.2015

The Karnal Central Co-operative Bank
Ltd., Karnal

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Suvineet Sharma, Advocate,
for the petitioner.

Ms. Vibha Dhiman, AAG, Haryana.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. The respondent-workman was a Salesman with the petitioning Bank. While working as a Salesman, he was offered contractual employment to work as a Secretary on 89 days basis and this arrangement was repeated four times. During the 4th period his services as Secretary were dispensed with which returned him to his substantive post of Salesman. It has been recorded in the admission order dated December 20, 1995 by the Division Bench of this Court that Mr. Suvineet Sharma, learned counsel made statement that the workman is still in the service of the Bank on the post of Salesman and he is continued to work in that capacity.

2. The matter is coming up exactly after 20 years today for final hearing and Mr. Sharma states that he has no instructions as to the present

status of the respondent-workman. But that makes no difference since the dispute referred was with respect to termination of the services of the respondent from the post of Secretary. The learned Labour Court has returned a finding that the services of respondent Raj Pal Singh were terminated because he allegedly violated Rule 27 of the Common Cadre Rules by participating in the elections of the Board of Directors. Thus, the termination of his service is due to alleged misconduct. So, the Tribunal observed that it was obligatory on the part of the management to follow the principles of natural justice while terminating the service. The mere fact that the name of the workman figures in the voter lists does not prove his guilt. The Labour Court went to the extent of observing that a charge-sheet should have been issued and opportunity of hearing would also required to be given before a domestic inquiry was held. Because of violation of principles of natural justice, the workman has been reinstated. A bare perusal of the appointment orders reveals that appointment was purely ad hoc for a period of 89 days and till the availability of regular candidates. The fact that the workman has been continuing in service and that he has not been charge-sheeted and has not lost his livelihood it will be a hyper-technical argument to hold that the order dated June 21, 1984 (P-5) should have been preceded by departmental proceedings. An ad hoc employee on a post to which he is not appointed and who is in service of the Bank on another post cannot make a legitimate complaint that prejudice has been caused to him by reversion since he has no right to hold the post to begin with.

3. Moreover, the dispute was raised after 7 years and 9 months of the reversion which should have been sufficient reason to decline the

reference and relief altogether. Neither have any sufficient reasons been given by the respondent explaining the reasons of the inordinate delay in raising a dispute by serving a demand notice.

4. Mr. Sharma places reliance on the judgments of this Court in **Surinder Kumar Sharma vs. Presiding Officer, Industrial Tribunal Bathinda and others**, 2015 (2) SCT 374 (P&H) & **Balwant Singh vs. Labour Court and others**, (1995) 111 (3) PLR 298 which is not without substance.

5. The Labour Court committed error in awarding reinstatement and denying back wages in its effort to mould the relief. The award is not sustainable and suffers from a fundamental flaw of law and errors apparent on the face of record which vitiate the award.

6. For the foregoing reasons, this petition is allowed and the award is set aside.

7. Since the workman has not appeared personally or through counsel, he shall have liberty to make an application for revival of the petition in case he feels aggrieved in any manner by this order and has something substantial to say in support of the impugned award.

(RAJIV NARAIN RAINA)
JUDGE

21.12.2015
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