

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: April 30, 2015

1. CWP No.13512 of 2011

Ram Avadh

...Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & another

...Respondents

2. CWP No.13593 of 2011

Magru

...Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Sukhdeep Parmar, Advocate,
for the petitioners in both the cases.

Mr.Sudhir Mittal, Advocate,
for respondent No.2 in both the cases.

AMIT RAWAL, J. (Oral)

By this common order, I intend to dispose of two Civil Writ
Petition Nos.13512 and 13593 of 2011 as the common question of law
involved in both the writ petition is the same.

The challenge in the writ petitions is to the award dated
3.3.2010 (Annexure P-3) passed by the Labour Court, whereby the reference
raised by the workmen against the alleged termination has been dismissed.

Mr.Sukhdeep Parmar, learned counsel appearing for the

petitioner contends that the petitioners were appointed in the year 1962 as *piece rated workers* with the respondent-Management and the services of the petitioner in CWP No.13512 of 2011 were terminated on 14.6.2000 and that of the petitioner in CWP No.13593 of 2011 were terminated on 20.1.2000. He further submits that the award of the Labour Court is vitiated in law and the Labour Court, while declining the reference, has not considered the length of service rendered by the petitioners and should have gone into the merits and demerits of the enquiry report conducted by the Enquiry Officer appointed at the instance of the Management and instead of dismissal from service, some lesser punishment ought to have been awarded.

Mr.Sudhir Mittal, learned counsel appearing for the respondent-Management contends that in both the cases, the workmen/petitioners remained absent and accordingly show cause notice was served upon both the workmen. The petitioner in CWP No.13512 of 2011 was called upon to resume his duties, but despite the receipt of the notice, he did not join back and accordingly the petitioners were served with the charge-sheet. However, the petitioner in CWP No.13512 of 2011 did not appear before the Enquiry Officer nor filed any reply to the charge-sheet, whereas the petitioner in another writ petition though appeared before the Enquiry Officer but thereafter absented. As regards the petitioner-workman in CWP No.13512 of 2011, he even did not appear before the Enquiry Officer and the Management has produced all the documents to show that they complied with the provisions of principles of natural justice and the enquiry was not vitiated in law and was in accordance with law and the dictum laid down by

the Constitutional Bench of the Hon'ble Supreme Court in **D.K.Yadav Versus J.M.A.Industries Ltd., (1993) 3 Supreme Court Cases 259** and, therefore, the award of the Labour Court is legal, fair, justified and no interference is called for. He further submits that there is no occasion for this Court to interfere while exercising powers under Article 226 of the Constitution of India.

I have heard the learned counsel for the parties and appraised the paper book.

It is a matter of record that the Management, before terminating the services of the petitioners, had complied with the principles of natural justice by sending show cause notice, charge sheet, much less, even holding enquiry. Both the workmen, when appeared in the witness box, admitted the receipt of the charge sheet, but did not give any explanation of their absence. However, the petitioner in CWP No.13593 of 2011, when appeared before the Management, came out with a plea that he was ill, but he did not produce any record and absented.

The Labour Court, on the basis of the oral and documentary evidence brought on record, has come to a conclusion and finding that the Management has conducted the enquiry in a most, fair and legal manner. There is no violation of principles of natural justice and, therefore, considered that no interference was required on his behalf vis-a-vis the punishment of dismissal awarded to the petitioners and accordingly held that the termination of the services of the workmen was fully justified.

I do not wish to disagree with the opinion expressed by the Labour Court in view of what has been observed above as the Management

has followed the procedure prescribed under the law and conducted the enquiry. However, no explanation has come from the workmen of not appearing before the Enquiry Officer and even not for joining back on the duty despite receipt of the show cause notice. It is clear case of abandonment of service.

Mr.Sukhdeep Parmar, learned counsel for the petitioners, in support of his contentions, has cited Jagdish Singh Versus Punjab Engineering College & Ors., 2009(8) JT 501, Naurang Singh Versus The Presiding Officer and others, 2014 LIC 3372 and The Punjab Land Development and Reclamation Corporation Ltd., Versus Presiding Officer, Labour Court, U.T.Chandigarh, 2001(1) S.C.T. 104. In view of the ratio decidendi culled out in the aforementioned judgment, there is no dispute with regard to the ratio decidendi, but the facts and circumstances of each case have to be looked into while applying the ratio decidendi. Since the facts and circumstances of the present case are entirely different, as noticed above, the judgments cited by the learned counsel for the petitioners are of no help.

I do not wish to interfere in the matter by exercising the extraordinary writ jurisdiction under Article 226 of the Constitution of India. The present dispute does not fall within the realm of judicial review.

Accordingly, the writ petitions are dismissed.

April 30, 2015
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(AMIT RAWAL)
JUDGE