

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

**Civil Writ Petition No.20839 of 2010
Date of Decision:03.07.2015**

Kuldeep Singh

....petitioner

Versus

Presiding Officer, Labour Court, Central U.T.Chandigarh and anr.

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

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

Present: Mr.S.M.Sharma, Advocate
for the petitioner

None for respondent No.2

ARUN PALLI, J.(ORAL):-

Vide an Award dated 10.11.2009 (Annexure P1), being assailed, claim set out by the petitioner was declined and the reference was answered accordingly. This is how, the petitioner is before this Court. Parties to the lis, hereinafter, would be referred to by their original positions in Industrial Tribunal-cum-Labour Court.

In short, the claim set out by the workman was that he was appointed as conductor. He suffered an accident on 06.03.1994 that caused injury in his vertebra i.e. injury back-c-P.I.V.D. and he remained under treatment from 06.03.1994 to 20.04.2004. As he

was declared fit on 20.04.2004, he presented himself for duty. However, he was informed that his services already stood terminated vide order dated 08.01.1996 w.e.f. 06.03.1994 i.e.the date he met with an accident. He had applied for leave on medical grounds from time to time and had also submitted medical certificates. No letter rejecting the leave applied for, by the workman was ever communicated to him. Neither any charge sheet was served upon him nor he was ever asked to participate in any inquiry. That being so, the workman has been condemned unheard and therefore the termination was illegal.

The stand set out in the written statement filed by the Management was that the termination of the services of the workman was preceded by a regular domestic inquiry. In fact, the charge sheet was sought to be served upon the workman vide a registered letter which was returned undelivered with the remarks: "refused to receive the same and, thus, be returned to the sender". Despite many opportunities afforded even by the inquiry officer the workman, failed to appear in the inquiry proceedings. Nothing was communicated by the workman that he, in fact, met with an accident and was thus unable to perform his duties. In fact, he willfully remained absent from duty w.e.f.06.03.1994. Since, he was found guilty of the alleged misconduct, he was issued a show cause notice, but he never chose to file any reply thereto. As despite having been afforded full opportunity, the workman did not opt to defend himself and did not join the inquiry proceedings, his services were terminated.

On an analysis of the matter in issue and the evidence on record, the Labour Court concluded that the workman did not report for duty w.e.f.06.03.1994 and thus, willfully remained absent. The charge sheet issued by the management was sought to be served upon the workman vide registered post but the notice was received back unserved as the workman declined to accept service. So much so, despite opportunities granted even by the inquiry officer, he did not choose to participate in the inquiry proceedings. The inquiry officer found him guilty of the alleged misconduct. And despite show cause notice and an opportunity of personal hearing afforded to the workman he did not choose to respond. Nothing was brought on record to prove that the workman indeed remained ill and, thus, could not resume work. In fact, he admitted that he submitted a letter dated 18.03.1996, vide which he prayed for supply of copy of his termination order. That being so, he was conscious that his services had already been terminated. Thus, the case set out by him that he actually acquired knowledge as regards his termination on 20.04.2004, was patently false. Despite having known on 18.03.1996 that his services already stood terminated, he did not choose to raise an industrial dispute for a period of 8 years. Thus, the Labour Court did not find him entitled to any relief as his claim suffered from gross delay and laches. Accordingly, his claim was rejected.

I have heard learned counsel for the petitioner and perused the paper book.

Learned counsel for the petitioner simply seeks to reiterate the submissions that were advanced before the Courts

below and rejected after a due and comprehensive consideration. No other argument was advanced.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that the instant petition is devoid of merit and is, thus, liable to be dismissed for the reasons that are being recorded hereinafter.

Concededly, the workman did not report for duty w.e.f.06.03.1994. The leave application and medical certificates that were purported to have been submitted by the workman were never brought on record. In fact, no evidence least cogent, was led to show that he indeed suffered from even any accident. As he chose to remain absent, he was sought to be served with a charge sheet vide a registered post which was returned unserved with the report of refusal. Even the inquiry officer afforded numerous opportunities to the workman to participate in the domestic inquiry but he did not opt to defend himself. So much so, a press note was also released twice on 22.03.1995 and 24.03.1995 in "Dainik Tribune" and "The Tribune", respectively, to enable the workman to join and participate in the domestic enquiry. Having been found guilty of the misconduct, a show cause notice was served upon the workman, followed by a reminder, but yet he did not choose to file any reply thereto. Not just that, vide a registered letter he was also afforded an opportunity of personal hearing and, once again, the workman refused to accept service. Concededly, he raised an industrial dispute after an inordinate and unexplained delay of almost 8 years of his termination.

Thus, this was just an attempt to revive an old and stale. Therefore,

he was rightly not found entitled to any relief by the Labour Court. Learned counsel for the petitioner could not point out as to how the conclusions arrived at by the Labour Court are either erroneous in law or contrary to the position on record.

In the wake of the position as set out above, no interference in exercise of power under Article 227 of the Constitution of India, is warranted. The petition being devoid of merit is accordingly dismissed.

03.07.2015

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(ARUN PALLI)
JUDGE