

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

**CWP No.19923 of 2014
Date of decision: 24.07.2015**

Kuldeep Singh

... Petitioner

Vs.

M/s Hindustan Lever

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. A.S.Gill, Advocate
for the petitioner.

AMIT RAWAL J.

The petitioner-workman has knocked the door of this Court challenging the Award of the Labour Court, whereby, his claim qua termination has been answered against him.

Mr. A.S.Gill, learned counsel appearing on behalf of the petitioner submits that the petitioner was appointed as Generator Operator on 01.02.1982 and worked upto 10.12.2002. His services were illegally terminated on 11.12.2002 without any notice, nor any fair and proper enquiry was held and without payment of compensation and at that time, workman was drawing a salary of ₹ 5,000/- per month. He further submits that he was not given any show cause notice. He had gone to Germany by obtaining one month's leave with effect from 01.10.2001 to 31.10.2001 though he

was supposed to resume duty on 01.11.2001, but could not as he had fallen ill, thus, termination was not in consonance with the provisions of Section 25-F of the Industrial Disputes Act, 1947 and prays that Award of the Labour Court in declining the claim qua termination is illegal, perverse and is not sustainable in the eyes of law.

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

The conceded position on record is that the workman had gone on one month's leave with effect from 01.10.2001 to 31.10.2001. Thereafter, he did not resume duty on 01.11.2001 but on telephone sought extension, which was granted to him subject to sending request letter, but even then, he did not report for duty on 01.12.2001. Thereafter, many letters dated 21.05.2002, 26.06.2002 and 21.08.2002 were sent to him. Accordingly, charge-sheet dated 03.10.2002 was also sent to him at his permanent address through registered A.D. Certificate of Posting (UPC) and by ordinary post and, as well as, at his available contact address in Germany by Speed Post but yet he did not report for duty. He did not put in appearance nor sent any reply. Mr. Ganesh S. Personnel Manager was appointed as Enquiry Officer and factum of same was intimated to the workman, vide letter dated 19.10.2002. Despite that, he did not join enquiry nor sent any reply. Copy of the enquiry report was also sent to him by post. Accordingly, he was dismissed from the service

on 11.12.2002 along with one month's pay and notice pay was also sent to him through money order and he was additionally paid a sum of ₹ 48,100/- towards full and final settlement. The stand of the petitioner is that he remained ill in Germany and therefore, did not resume duty. No documentary evidence, much less, medical record has been produced or proved on record before the Labour Court. Even specific averment made in the written statement, no replication was filed.

In view of the aforementioned, it is crystal clear case of the absenting/absenteeism from the duty and the Management had resorted to the legal procedure by sending him letters and thereafter, charge-sheet and appointment of Enquiry Officer but the workman did not even bother to send letter to obtain leave on medical grounds as sought to be projected before the Labour Court. The Labour Court after examining the oral and documentary evidence *thread bare* came to categoric finding that workman failed to give any reasons whether he was in position to travel to India to join enquiry against him falsified his plea of illness. The application for leave was without specifying the leave period which was sent by him to respondent vide Ex.W3 to Ex.W9, whereas, he never sought leave from January 2002 to May 2002. Thus, the workman absented from the duty with effect from 01.12.2001 and his services were rightly terminated with effect from 11.12.2002. There is no fault with the findings rendered by the Labour Court.

There is no merit in the writ petition and accordingly, the same is hereby dismissed.

(AMIT RAWAL)
JUDGE

July 24, 2015
savita