

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 21582 of 2014
Date of decision : March 13, 2015

Surinder Pal Singh

..... Petitioners

Versus

**Central Govt. Industrial Tribunal-cum-Labour Court, Chandigarh
and others**

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vijay Kumar Rana, Advocate
for the petitioners.

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?

Amit Rawal, J (oral).
CM No. 3168 of 2015

This is an application seeking placing on record the copy of report of the Medical Examination.

The application is allowed.

Report Annexure P-12 taken on record.

CM No. 3169 of 2015

This is an application seeking exemption.

The application is allowed.

Exemption granted.

CWP No. 21582 of 2014

The petitioner has approached this Court for setting aside the award dated 21.4.2014 (Annexure p-11) whereby the claim of the petitioner has been rejected. Besides the challenge to the order dated 27.4.2007 (Annexure P-5) vide which the appeal of the petitioner had been dismissed and order dated 27.1.2007 whereby the petitioner was compulsorily retired has also been challenged.

Mr. Vijay Kumar Rana, learned counsel appearing on behalf of the petitioner contends that the order of compulsory retirement vide Annexure P-3 was passed on 27.1.2007 whereas, the enquiry report was not supplied to the petitioner and this fact is proved as the Management received the enquiry report on 7.11.2007. After availing the statutory remedy of appeal the petitioner sought a reference before the Industrial Tribunal and the petitioner was not given an effective opportunity and as well as not supplied copy of the inquiry report, thus, the enquiry proceedings as well as the disciplinary proceedings being void and illegal be set aside and the petitioner be granted an opportunity to the parties to the *lis* to lead evidence afresh.

During the course of hearing before the Labour Court, the Management examined three witnesses MW1 C. R. Dhaniala to prove documents M2 to M27. MW2 Surjit Singh, Branch Manager State Bank of India and MW-3 S. P. Singh, Chief Manager, State Bank of India. All the aforementioned witnesses were cross examined by the workman and the workman could not cause any dent in the cross examination. It would be apt to refer to the

charges. The petitioner was served with the following charge sheet as enumerated in Annexure P-1. Details of which are extracted hereunder:-

“You under drunkenness on 13.10.2005 created disorderly and indecent behaviour on Bank's premises of the Bank affecting the Bank's image and customers service.

ii) You unauthorizedly left the branch on 23.9.2005 at 2.00 p.m. and did not turn up till closing of the business hours on that day.

iii) Smt. Kirpal Kaur Saving Bank account holder No.10683 and Sh. Gurvinder Singh bearing belt No.PPA-333 complained that you misbehaved with them on 15.09.2005 and 16.9.2005 respectively in the Bank's premises while they had come to transact their business. A photocopy of each complaint made by them is enclosed.

iv) You left the branch on 12.09.2005 without tallying the balance while posting lists of salaries of staff of various Departments and parked huge credits in the System Suspense Account and created obstacles in the work of the other colleagues and Bank's Books were not closed in the time resulting into disrupting normal functioning of the branch.”

The petitioner is stated to have filed reply to the

aforementioned charges. Reply dated 25.11.2005 (Annexure P-2) is extracted hereunder:-

“Sir, I want to mention that the charge No.1 against me is not correct. On 13.10.2005 I performed my duties in a proper manner and neither I had not done wrong with any one nor raised any obstruction in the working of the Bank as mentioned.

Charge No.2 as allegedly mentioned that on 23.9.2005 after 2.00 P.M.I was not present in the Bank this is wrong. Although I remained working upto 4.45 P.M.in the Branch.

Charge No.3 as allegedly mentioned that I have misbehaved with Kirpal Kaur account holder No.10683 and Gurvinder Singh. This is totally wrong. Although I had sent them to Sh. S. P. Singh, Chief Manager, so that their problem with regard to the opening of the account could be sought out, because Kirpal Kaur was not having the necessary documents for opening the account. So far as the question of complaint of Gurvinder Singh is concerned I want to mention that on that day there was a queue on the counter and Gurvinder Singh mentioned to complete the pass book by way of breaking the queue due to which the persons who were standing in the queue raised the objection. I mentioned to them that the pass book printer is out of order. In spite of that he started speaking and I mentioned to him to talk to Sh. S. P. Singh, Chief Manager. Therefore, the allegations leveled against me are vague, baseless and concocted.

Charge no.4, Sir, the concerned record was not made available to me to inspect. Although, I want to mention that the work whatever was handed over to me that I completed and thereafter I went. The

allegation leveled against me is vague and baseless.

Sir, I once again want to mentioned that the charges leveled against me in the above mentioned charge sheet are wrong, concocted and are baseless and without any basis and the same have been leveled against the under planned conspiracy. I requested to your honour that in view of the reply given above to the alleged charges I may kindly be discharged.”

From the perusal of the reply, it is ex facie clear that the petitioner has not denied the specific allegations in the charge sheet with regard to the consumption of liquor/alcohol, much less even the stand taken before the Labour Court qua consumption of the cough syrup which is stated to have been advised by the doctor on 12.10.2005 had not been taken.

The Labour Court after pondering upon the documentary evidence, much less the statement of the witnesses including the cross examination irresistibly came to the conclusion that the workman has not been able to refute/rebut the allegations in the charge sheet. In essence, the charges against the petitioner were duly proved. While answering the reference the Labour Court ordered that no intervention was required in respect of the punishment of compulsory retirement with superannuation benefits. It is the aforementioned order that is challenged before this Court.

Learned counsel for the petitioner contends that the allegations in the charge sheet have not been proved. The enquiry is also vitiated in law as the principles of natural justice have not been

complied with. The witnesses have also not proved the case of the Management with regard to the allegations of consumption of liquor and misconduct.

The medical report Annexure P-12 annexed with C.M.3168 of 2015 had been issued on 24.6.2006 whereas the petitioner was medically examined on 13.11.2006. He further submits that even the doctor has not been examined in support of the certificate issued by the Government Hospital, Phillaur.

I have heard learned counsel for the petitioner, appraised the paper book and as well as the documents, much less the award of the Labour Court and is of the view that there is no merit in the aforementioned contentions.

From the perusal of the reply of the charge sheet it is seen that the petitioner has failed to deny the specific allegations with regard to consumption of liquor/alcohol. Not only this, even the stand taken before the Labour Court qua recommendation of the doctor who is stated to have recommended to take cough syrup owing to respiratory infection had not been taken. It is for the first time before the Labour Court, the petitioner has coined a story of suffering from respiratory infection and under medical advise is stated to have consumed cough syrup. The Medical report (Annexure P-12) has not been disproved through any independent witness.

It is settled law that provisions of Indian Evidence Act as well as Limitation Act do not apply to the proceedings before the Labour Court. As far as the plea of non-compliance of principles

of natural justice is concerned, the Reference Court/Industrial Tribunal set aside the enquiry report and gave an opportunity to the parties to the *lis* to lead evidence afresh in support of the allegations of the charge sheet.

Both the Management and workman have lead evidence in support of their respective stands and on examination of the evidence the Labour Court found that the order of compulsory retirement with supperannuation benefits has justifiably been passed. Therefore the plea that the enquiry report was supplied later, but, prior to the passing of the termination order, would be insignificant. As regards the plea of medical report through examination of the doctor the same is repelled, for, nothing prevented the workman to summon record from the Government Hospital to prove the contents of the certificate. As already observed above, since the principles of Evidence Act do not strictly apply, yet the workman had not made any effort to disbelieve the evidence, both oral and documentary brought on record by the Management. Even the allegations of misconduct have also been proved through the testimony of MW-3 S.P. Singh Chief Manager on record through the complaint of two customers. As regards the said charges the petitioner has not denied the presence of customers in the Bank premises but came out with the stand that persons wanted to jump out of the queue and wanted to be entertained out of turn.

No fault can be found with the findings rendered by the Labour Court. The award is fair, legal and justified. There is no illegality much less perversity.

In view of what has been observed above, the writ
petition is accordingly dismissed.

(AMIT RAWAL)
JUDGE

March 13, 2015
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