

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 23705 of 2014

Date of decision May 6, 2015

PRTC, Patiala and others

..... Petitioners

Versus

Presiding Officer, Industrial Tribunal, Patiala and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Anil Kumar Sharma, 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)

The challenge in the present writ petition is to the award dated 18.11.2013 whereby a reference has been answered in favour of the workman and against the Management and it has been ordered that since the workman had attained the age of superannuation therefore the workman has been held entitled to pensionary benefits which were due on the date of retirement treating him to be in service and he cannot be held entitled to any other wages over and above the already paid and the period of no work has been ordered to be treated as part of leave.

Learned counsel for the petitioner submitted that the workman joined as conductor on 8.4.1972 and an FIR No. 223 dated 6.9.2002 under Sections 376,366,323 and 120-B of IPC was

registered with police station, Rajpura and in lieu thereof he was arrested on 10.9.2002 and on 19.9.2002 he was suspended and a charge sheet dated 12.11.2002 was alleged to have been served upon the workman and the workman did not join the enquiry proceedings and the enquiry officer submitted ex-parte report dated 28.4.2003.

He further submitted that a fresh enquiry on request of the workman was conducted and the enquiry officer gave his report on 11.8.2003 whereby the charges were proved and accordingly a show cause notice dated 6.7.2004 was served upon the petitioner. The services of the petitioner were terminated on 18.10.2004 and the said order was assailed by the workman by filing an appeal before the appellate authority and the appellate authority upheld the order dated 7.2.2005.

He further submits that the award of the Labour Court is vitiated in law and perverse. The Labour Court ought not to have ordered the period of no work as a leave of kind due and the order dated 7.2.2005 has also not been challenged.

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

The Labour Court has culled out the pleadings of the parties to the /is and in it is manifest the workman had challenged the termination order by stating that the Management ought not to have terminated the services during the pendency of the appeal. It is a matter of record that the petitioner-workman was convicted by the trial court on 28.4.2003 however, in appeal he was acquitted by this

Court on 1.8.2013 vide Ex.WX.

It is settled law that the enquiry proceedings have been initiated on the same premise or lines on which FIR has been registered, where the delinquent official has been acquitted. The enquiry report and conciliation proceedings leading to dismissal/termination are not sustainable.

The Labour Court after appreciating the evidence on record, much less the case law found that the workman was charged criminally and departmentally though he was acquitted. It is further a conceded position on record that the workman was not charged for commission of substantive offence but was charge sheeted under Section 120-B of the Indian Penal Code. Accordingly the Labour Court found that the termination of the petitioner after acquittal is not sustainable in law and therefore noticing the fact that the workman had superannuated directed the petitioner-Management to calculate necessary benefits of the workman and make the payment to the workman within a period of 60 days of the publication of the award failing which it shall entail 6% interest per annum.

No fault can be found with the award of the Labour Court. The award is fair, legal and justified, much less is passed in accordance with law.

Accordingly the writ petition is dismissed.

(AMIT RAWAL)
JUDGE

May 6, 2015
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