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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA-112-2015 [O&M]

Date of Decision : December 8th, 2015

Haryana Seeds Development Corporation Ltd.

.... Appellant

Versus

Presiding Officer, Industrial Tribunal-cum-Labour
Court, Hisar and another

.... Respondents

**CORAM : HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE SHEKHER DHAWAN**

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. Vishal Gupta, Advocate,
for the appellant.

None for the respondents.

SHEKHER DHAWAN, J.

Present intra-court appeal under Clause X of the Letters Patent has been filed by the appellant against the order dated 10.11.2014 passed by learned Single Judge, whereby writ petition filed by the petitioner-appellant was dismissed.

2. Appellant-Haryana Seeds Development Corporation Ltd. [hereinafter referred to as "appellant-Corporation"] has challenged the order dated 10.11.2014 passed by learned Single Judge whereby Civil Writ Petition No. 22779 of 2014 filed by the appellant-Corporation challenging the award dated 8.7.2014, passed by the Presiding Officer, Industrial

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Tribunal-cum-Labour Court, Hisar, was dismissed.

3. As per the appellant, Subhash Chander, workman [respondent No. 2 herein] was appointed as a Watchman and was found guilty for theft of 108 bags of raw wheat seeds from the premises of appellant-Corporation on 24.08.2012. The enquiry had been conducted and after following due process, a show cause notice dated 14.12.2012 was issued and after consideration of the reply filed by the workman, his services were terminated by the Managing Director of the appellant-Corporation.

4. It may be noticed that earlier, the present workman was engaged on 18.4.1993 as Watchman and his services were dispensed with w.e.f. 5.6.1997. Industrial dispute was raised by the workman and the same was decided by Labour Court-cum-Industrial Tribunal, Hisar vide award dated 8.2.2000 whereby the workman was held entitled to reinstatement with continuity of service and full back wages. Civil Writ Petition No. 14954 of 2009 was filed by the appellant-Corporation which was dismissed by this Court vide order dated 7.9.2009. LPA No. 1306 of 2009 preferred by the appellant-Corporation was disposed of by this Court vide order 22.5.2014 whereby the relief of reinstatement was upheld but the award was modified and back-wages were restricted to 25%.

5. During the pendency of the said appeal, the workman was reinstated subject to final decision thereof and he was engaged as Watchman at the premises of Haryana Seeds Development Corporation, Tohana. On 24.08.2012, the workman was found guilty of theft of 108 bags of raw wheat seeds from the premises of appellant-Corporation. On 8.1.2013, the services of the workman were again terminated. He raised an industrial dispute before the Labour Court-cum-Industrial Tribunal and

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the Labour Court passed the award thereby directing the appellant-Corporation to reinstate him into service with immediate effect with all consequential benefits with 25% back wages. Appellant-Corporation challenged the said award passed by the Labour Court by way of CWP No. 22779 of 2014 and after considering the entire facts, the said writ petition was dismissed by learned Single Judge of this Court vide order dated 10.11.2014 and hence, the present Letters Patent Appeal before this Court.

6. Learned counsel for the appellant-Corporation submitted that in compliance with the orders passed by this Court, the respondent-workman was allowed to join duty, but thereafter it was found that he was not performing his duties properly and hence, he was issued a show cause notice as theft of 108 bags of raw seeds had taken place on 24.8.2012. Reply was filed by the workman on 7.1.2013 and the Managing Director of the appellant-Corporation terminated the services of the workman on 8.1.2013. However, these facts have not been appreciated either by the Labour Court or by learned Single Judge of this Court. So, the present appeal be accepted.

7. We have considered the submissions made by learned counsel for the appellant-Corporation and are of the view that the Industrial Tribunal-cum-Labour Court in its award dated 8.7.2014 [Annexure P/9] rightly formed the opinion that it was a case of unfair labour practice as during the first round of litigation, the present appellant-Corporation remained unsuccessful because the Industrial Tribunal-cum-Labour Court passed the award against it. Thereafter, learned Single Judge of this Court dismissed the writ petition filed by the Corporation and the appellant-Corporation chosen to allow the workman to join the service but

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subsequently terminated his services on flimsy grounds. We may say so in view of the fact that the termination of services of the respondent-workman vide order dated 8.1.2013 was on account of negligence of duty on the part of respondent-workman as theft of 108 bags of raw wheat seeds had taken place. The proceedings of the case suggest that it was just a flimsy ground taken to adopt unfair labour practice and to terminate the services of the respondent-workman. If actually theft of 108 bags of raw wheat seeds had taken place, there was no reason or occasion with the appellant-Corporation not to report the matter to the police by way of FIR, but admittedly, no FIR was got registered in this case. This fact was duly admitted by Sh. V.P.Singh, Manager, HSDC, Tohana, who appeared as MW-1, that no FIR was lodged regarding the theft. More so, the reply was filed by the respondent-workman to the show cause notice on 7.1.2013 and the Managing Director passed the order of termination on 8.1.2013 without holding any proper enquiry, giving an opportunity of hearing and participation to the respondent-workman. Learned Single Judge has already considered these facts and legal proposition while passing the order dated 10.11.2014 impugned in this appeal and we do not find any illegality calling for interference by way of the present Letters Patent Appeal and the same stands dismissed being devoid of any merit.

(SATISH KUMAR MITTAL)
JUDGE

(SHEKHER DHAWAN)
JUDGE

December 8th, 2015
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