

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

LPA No.626 of 2015 (O&M)

Date of Decision: 09.07.2015

Sushila Dalal

..... Appellant

Versus

M/s Maruti Suzuki India Ltd. & Another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: Mr. Ashwani Bakshi, Advocate
for the appellant.

RAMENDRA JAIN, J.

The unsuccessful appellant-workwoman has preferred this appeal against the judgment dated 11.07.2014 passed by the learned Single Judge of this Court in CWP No.10594 of 2014, rejecting her claim of reinstatement in service with back wages. Along with the appeal CM No.1279-LPA-2015 has been filed seeking condonation of 157 days' delay in filing the appeal.

Brief facts, relevant for decision of this appeal are that the appellant-workwoman was appointed as a 'Trainee' on compassionate grounds by respondent No.1-Management in the year 1993 due to the death of her husband in a motor accident. However, on 09.02.2004, she was charge-sheeted

broadly with the charges that (i) she was deliberately slowing down the work, on account of which the components had begun piling up at the station. (ii) due to her act and misconduct, her supervisor had to deploy one extra person from 12.01.2004 to 15.01.2004 along with her to minimise the production loss and to avoid stoppage of engine assembly. (iii) she was threatening the Shift Incharge and misbehaving with the superiors and senior officers of the company. (iv) her behaviour had been rude and offensive with them and she had deliberately and wilfully made false accusations against the Executive Director which amounted to gross insubordination and unbecoming an employee.

A domestic inquiry was conducted against her by appointing Sh. S.K.Ahuja, as an Inquiry Officer. Since, the appellant-workwoman did not cooperate with the Inquiry Officer, she was proceeded against ex parte and inquiry report was submitted against her. On the basis thereof, she was dismissed from service vide letter dated 13.04.2014.

The appellant-workwoman then raised an industrial dispute that domestic inquiry was not conducted in a proper manner. Neither any opportunity of hearing was ever afforded to her, nor copy of the inquiry report was supplied to her. She had been dismissed from service in an

illegal manner. Therefore, she was liable to be reinstated in service of respondent No.1-Management with full backwages.

The respondent No.1-Management contested her claim by filing a written statement taking various pleas *inter alia* that her services were legally dispensed with by dismissing her from service after holding a proper inquiry. Since, the charges against her were grave, so she was placed under suspension. The explanation tendered by the appellant-workwoman having been found unsatisfactory, an inquiry was ordered to be conducted against her by appointing Sh.S.K.Ahuja as an Inquiry Officer. From the very beginning, the appellant-workwoman remained totally non-cooperative. She deliberately indulged in tactics to delay the inquiry proceedings on one pretext or the other. She was given full opportunity of hearing and to cross-examine the management witnesses. The principles of natural justice were also followed. The appellant-workwoman did not have any defence and chose not to cross-examine the witnesses or produce any evidence in her defence. Finally, it was pleaded that the appellant-workwoman was rightly and lawfully dismissed from service and thus was not entitled to any relief.

The Presiding Officer, Industrial Tribunal-cum-

Labour Court-I, Gurgaon, ('Labour Court' – for short) after examining all the above facts, found that the appellant-workwoman and her co-worker were absenting themselves from the inquiry proceedings on one pretext or the other, they were not willing to get the inquiry concluded. As such, it could not be said that the domestic inquiry was not conducted in a fair or proper manner. The appellant-workwoman in fact also remained absent and did not appear before the Labour Court. Her evidence was closed on 06.09.2012 and award dated 11.09.2012 was passed against her by deciding the reference against her.

The appellant-workwoman then filed CWP No.10594 of 2014 in this Court. The learned Single Judge, after considering all the facts and issues raised by both the sides in detail, noticed that the appellant-workwoman had resorted to the same strategy for which she had been charge-sheeted, that is, of going slow in the inquiry proceedings and made all efforts to prolong the said proceedings before the Labour Court also. It was observed that the Labour Court too noticed the said fact and came to the conclusion that proper opportunity was given to the appellant-workwoman but she was intentionally trying to delay the inquiry proceedings on one pretext or the other.

Initially, the appellant-workwoman, it was observed, sought

adjournment before the Inquiry Officer for assistance of a co-worker and when he appeared, the appellant-workwoman started absenting. In such circumstances, the findings recorded by the Labour Court, it was held, cannot be held to be without any basis. The Labour Court had held that once there was a serious charge of stopping the assembly line and for going slow on two occasions; besides, the behaviour of the appellant-workwoman was rude towards her seniors officers, then to retain such an employee on the rolls of the respondent No.1-Management would not be appropriate. The termination was accordingly held to be justified in the facts and circumstances and such a finding could not be faulted in any manner.

It was also found to be apparent that the appellant-workwoman was just wanting to litigate and prolong the dispute as had been noticed. Before the Labour Court, she had remained absent on several occasions and then the award was passed on 11.09.2012. The appellant-workman chose not to challenge the same expeditiously and the writ petition had been filed belatedly on 26.05.2014.

With these observations, the learned Single Judge refrained himself from interfering with the well reasoned award of the Labour Court and dismissed the writ petition in limini vide judgment dated 11.07.2014 on the aforesaid

reasons as well as on the basis of delay and laches.

Learned counsel for the appellant-workwoman did not raise any new fruitful contentions in his appeal rather he repeated the stand taken by the appellant-workwoman before the learned Single Judge and the learned Labour Court. He submitted that the domestic inquiry was not conducted in a fair and proper manner as the appellant-workwoman was not afforded an adequate opportunity to defend herself. The whole inquiry was completed within less than a month, which shows that the Inquiry Officer had not followed the principles of natural justice. The Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Gurgaon erred in not appreciating the irregularities and illegalities committed by the Inquiry Officer. He wrongly decided the preliminary issues in this respect against the appellant-workwoman, without perusing her pleadings and the evidence on record. The learned Single Judge had also failed to appreciate that the inquiry proceedings were vitiated for non compliance of the principles of natural justice as the appellant-workwoman was deprived of her right to cross-examine the Management witnesses and to produce her evidence. Lastly, learned counsel for the appellant-workwoman contended that the punishment of dismissal of the appellant-workwoman is disproportionate to

her alleged misconduct and thus taking a lenient view, she may kindly be ordered to be reinstated in service.

We have given our thoughtful consideration to the submissions made by the learned counsel for the appellant-workwoman.

The appointment of the appellant-workwoman as 'Trainee' in the year 1993 on compassionate ground after the death of her husband in a motor accident, is not in dispute. She was charge-sheeted on 09.02.2004 *inter alia* on the various grounds narrated above.

The stand of the appellant-workwoman that she was not allowed to represent herself properly before the Inquiry Officer in the domestic inquiry against her is not tenable, besides, it is false and has no legs to the stand. The learned Single Judge to ascertain the above said assertion has gone through the entire inquiry proceedings referred to by the learned counsel for the appellant-workwoman and found that the appellant-workwoman had resorted to the same strategy for which she had been charge-sheeted, that is, of going slow in the inquiry proceedings against her and had made all efforts to prolong the said proceedings before the Labour Court also. The Labour Court has also noticed the said fact and came to the conclusion that proper opportunity was given to the

appellant-workwoman but she was purposely trying to delay the proceedings on one pretext or the other. Initially, time was taken by the appellant-workwoman for getting assistance of a co-worker and when the person appeared, the charge-sheeted employee, that is, the appellant started absenting herself in the domestic inquiry. In such circumstances, the findings recorded by the learned Labour Court cannot be held to be without any basis. The learned Labour Court has also held that there were serious charges against the appellant-workwoman that is: (i) for stopping the assembly line, (ii) for going slow on two occasions, (iii) her behaviour was rude and offensive towards the officers and to retain such an employee on the rolls of the Company would not be appropriate.

The learned Single Judge, after considering all these facts of the case, held that the termination of the appellant-workwoman was justified and such a finding was not liable to be faulted in any manner.

It was also found that the appellant-workwoman was just wanting to litigate and prolong the dispute before the learned Labour Court too, as she had remained absent on several occasions and then, the award was passed on 11.09.2012. The appellant-workwoman did not choose to challenge the award expeditiously and rather filed the writ

petition on 26.05.2014 belatedly.

The above observations of the learned Single Judge as well as of the learned Labour Court are based on factual correct facts and thus, do not want any interference, in the present appeal, more particularly, when the learned counsel for the appellant-workwoman has miserably failed to show any illegality or infirmity in the same.

As regards the punishment that has been imposed, we find that the same is not in any manner disproportionate to the misconduct of the appellant-workwoman. The appellant-workwoman was not only non-cooperative in her work but had also been rude in her behaviour to her supervisors. The learned Labour Court and the learned Single Judge have taken stock of the evidence and her behaviour pattern. The penalty of dismissal from service in respect of the appellant-workwoman in the facts and circumstances is not shockingly disproportionate to her misconduct. In fact the appellant-workwoman has been non-cooperative in her work; besides, being rude to her superiors which charges despite her being given adequate opportunities were not contested by her and thus came to be established. Therefore, no interference as regards the quantum of punishment awarded even is called for.

In view of the discussion above, we find no merit

in the contentions raised by the learned counsel for the appellant-workwoman as well as in this letter patents appeal. Accordingly, the same being devoid of any merit, is hereby dismissed.

Since the appeal has been dismissed on merits, the question regarding delay in filing the appeal, is only academic. Hence, the CM No.1279-LPA-2015 seeking condonation of 157 days' delay in filing the appeal is also dismissed.

(S.S. SARON)
JUDGE

(RAMENDRA JAIN)
JUDGE

09.07.2015
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