

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

LPA No. 757 of 2015 (O&M)

DATE OF DECISION : 15.09.2015

The Pepsu Road Transport Corporation, Patiala and another
.... APPELLANTS

Versus

Sadhu Ram and another
.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. S.P. Garg, Advocate,
for the appellants.

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SATISH KUMAR MITTAL, J. (Oral)

The Management has filed this intra-court appeal under Clause X of the Letters Patent against the judgment dated 24.12.2014 passed by the learned Single Judge, whereby the writ petition (CWP No. 17115 of 2009) filed by the workman (respondent No.1 herein) challenging the award dated 08.09.2009 rendered by the Presiding Officer, Labour Court, Patiala, was allowed and the punishment of removal from service awarded to the workman was modified to that of compulsory retirement from service.

Though there is delay of 84 days in filing the appeal and the appellants have filed application (CM No. 1567-LPA of 2015) for condoning the said delay, yet we have heard learned counsel for the appellants on merits and have gone through the award of the Labour Court

as well as the impugned order passed by the learned Single Judge.

Undisputedly, the learned Single Judge is having jurisdiction to modify the order of punishment keeping in view the provision of Section 11-A of the Industrial Disputes Act. Therefore, there is no jurisdictional error in the impugned order. Further, the learned Single Judge, while modifying the order of punishment of removal from service to that of compulsory retirement, recorded the following four reasons :-

- (i) that the finding of misconduct recorded by the Labour Court against the respondent – workman was based on mere inference;
- (ii) that as per the finding of the Labour Court, the respondent – workman only intended to cause monetary loss of ₹ 530/- to the appellant – Corporation;
- (iii) that it is not case of an actual embezzlement or misappropriation of funds; and
- (iv) that the past long service of the workman was not taken into consideration while awarding punishment.

In our opinion, keeping in view all the aforesaid factors, which have not been disputed by learned counsel for the appellants, the learned Single Judge, has rightly modified the punishment of removal from service awarded to the respondent – workman to that of compulsory retirement from service. Thus, we do not find any reason to interfere with the impugned

order passed by the learned Single Judge.

No merit. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

September 15, 2015
ndj

(MAHAVIR S. CHAUHAN)
JUDGE