

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.M.No.1574-LPA of 2015 and
LPA No.761 of 2015 (O&M)
Date of Order: 20.08.2015

Gian Chand

..Appellant

Versus

Labour Court and others

..Respondents

CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Amit Kahsyap, Advocate,
for the appellant

RAJIVE BHALLA, J.

C.M.No.1574-LPA of 2015

Allowed as prayed for.

Annexures A-1 to A-8 are taken on record.

L.P.A.No.761 of 2015

The appellant, challenges, order dated 17.12.2014,
dismissing his writ petition and affirming award, dated 04.08.2009,
passed by the Labour Court, Patiala.

Counsel for the appellant submits that the impugned order
and award are illegal as the enquiry officer did not grant adequate
opportunity to the appellant to present his defence. The enquiry
officer concluded enquiry proceedings without waiting for the
appellant despite the fact that the appellant had filed an application
for an adjournment as his son was admitted to All India Institute of
Medical Sciences, New Delhi, for bypass surgery. Counsel for the

appellant further submits that findings recorded against the appellant are contrary to the record. The department has not produced any witness or passenger other than official witnesses who were inimical towards the appellant to prove the allegation that the appellant embezzled money received from sale of tickets. The enquiry officer has, however, recorded a finding against the appellant.

We have heard counsel for the appellant, perused the impugned order, the award passed by the Labour Court as well as the entire paper book.

The appellant's grievance that he was not given adequate opportunity, is duly considered and dealt with, in detail, in the impugned order as well as in the award passed by the Labour Court, but rejected by holding that the appellant had already cross-examined departmental witnesses and when the enquiry was fixed for his evidence, sought adjournments, which were granted but eventually his request for time on 04.07.2000, was rejected. A relevant extract from the impugned order reads as follows:-

I would not find any fault with the approach of the Labour Court. Once the petitioner was seized of the proceedings before the inquiry officer wherein he had cross-examined the witnesses of the management and had also sought repeated opportunities to lead his evidence then default on his part to participate further cannot be construed to be a violation of principles of audi alteram partem. The principles of fair plea and natural

justice envisage a lawful proceeding and once opportunities have been given but frittered away for unfair reasons with a motive to delay the process of law then such a person can hardly raise the plea of a flawed process.”

Counsel for the appellant is unable to refer to any evidence that the appellant may have sought to lead, before the enquiry officer that could have had a bearing on the outcome of the enquiry. The allegation of bias is also without merits. As noticed in the impugned order, three different officers found the appellant guilty of collecting fare without issuing tickets. The Labour Court has also recorded that the petitioner had been suspended on eighteen separate occasions and one stage his services were terminated, though he was later employed afresh. At least on ten different occasions his annual increments were also stopped.

We find no error of jurisdiction or of law, in the impugned order or the award passed by the Labour Court, Patiala, and consequently dismiss the appeal.

(RAJIVE BHALLA)
JUDGE

August 20, 2015
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(NAVITA SINGH)
JUDGE