

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1550 of 2012

Date of Decision:- 05.08.2016.

Uttar Haryana Bijli Vitran Nigam Ltd.

.....Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Mohnish Sharma, Advocate for the petitioner.

Mr. J.K. Goel, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (Oral)

- 1.) The petitioner has assailed the award dated 8.4.2011 passed by the Industrial Tribunal-cum-Labour Court, Panipat (Annexure P-4).
- 2.) The respondent-workman was working in the petitioner's office as a Sweeper w.e.f. 4.4.2001. On 26.7.2008, an accident took place in which one Late Dilip Singh, Lineman died due to electrocution. Arising out of these facts, it is alleged that petitioner is one of the responsible for death of Dilip Singh, Lineman to the extent that workman switch on the power. Thereafter, an Executive Engineer investigated the matter and submitted a report. In the report, it was held that respondent-workman and another Assistant Lineman were responsible for the death of Dilip Singh. Based on the report of the Executive Engineer, workman's services have been

terminated and he was relieved.

3.) Learned counsel for the petitioner submitted that perusal of Executive Engineer's investigation report, it is evident that workman is responsible for the death of Dilip Singh, Lineman. Thus, petitioners have taken decision to terminate services of the workman on 30.7.2008. Therefore, there is no infirmity. Before the Labour Court, petitioner remained *ex parte*. However, the Labour Court failed to appreciate the reasons for termination of the workman. Hence, the award passed by the Labour Court is without application of mind.

4.) On the other hand, learned counsel for the workman submitted that termination order and relieving the workman is based on the investigation report submitted by the Executive Engineer, which is highly arbitrary. The workman was not allowed to participate in the process of investigation and investigation report has been prepared and submitted behind the back of the workman. There is a total violation of principle of natural justice. Not even a show cause notice was issued before ordering termination and relieving the workman.

5.) Admittedly, the petitioner remained *ex parte* before the Labour Court. The Executive Engineer's investigation report which is adverse to the workman and based on such report, terminating and relieving the workman is highly arbitrary and illegal. The workman has not been given opportunity to participate in the process of investigation held by the Executive Engineer. That apart, the petitioner is entitled for regular inquiry having regard to the allegation that he had committed alleged misconduct by switching power on and due to which Late Dilip Singh, Lineman died on

petitioner services cannot be terminated. Therefore, there is no infirmity in the award passed by the Labour Court dated 8.4.2011.

4.) Petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

August 5, 2016.
sandeep sethi

Whether speaking/reasoned:-

Yes

Whether Reportable:-

No.