

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

CWP No.18756 of 2012

Date of decision: August 17, 2016

Lokesh

...Petitioner

Versus

M/s Managing committee Saint Thomas and another

...Respondents

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

Present: Mr. A.P. Bhandari, Advocate
for the petitioner.

Mr. Deepak Bhardwaj, Advocate
for respondent No.1.

P.B. BAJANTHRI, J.(ORAL)

Petitioner has assailed award dated 17.12.2010. He is stated to have been appointed as Bus Conductor in the respondent-school on 17.03.1993. He remained absent from duty w.e.f. 15.12.2003 and there were internal correspondence between the respondent and the petitioner regarding reporting and non-reporting. Thereafter, internal disputes were arisen.

Learned counsel for the petitioner submitted that his services have been terminated without holding any inquiry. The Labour Court has merely awarded a sum of Rs.25,000/- while declining order of reinstatement, continuity of service and back wages. Learned counsel for the petitioner stated that petitioner had served from the year 1993 to 2003. Considering the length of service, compensation awarded by the Labour Court is very meager. It was further submitted that petitioner was not allowed to discharge his

duties in the respondent-school. On the other hand, respondent-school's version is that petitioner failed to report for his duty and remained absent. These are all disputed facts for which disciplinary proceedings was warranted. The same has not been complied by the respondent. On the other hand, petitioner had not been permitted to discharge his duties to the post held by him, therefore, he is entitled for reinstatement with full back wages and continuity of service.

Per contra, learned counsel for the respondent submitted that having regard to the conduct of the petitioner that he remained absent despite asking him to report for duty by means of various communication from January 2004 to March 2004, the same has not been replied by the petitioner and petitioner failed to report for duty. Therefore, there is no order of termination as presumed by the petitioner. Hence, the Labour Court rightly awarded compensation of Rs.25,000/-.

Therefore, no interference is called for.

Heard learned counsel for the parties.

Petitioner served from 1993 to 2003. Abruptly, the respondent-school did not permit the petitioner to discharge his duties. Assuming that the petitioner remain absented himself for number of days, the respondent-school should have resorted to initiation of disciplinary proceedings for an unauthorized absent. On the contrary, the respondent-school were creating documents for the purpose of legal remedies to demonstrate that their intention was to take back the petitioner into service. There were no hurdle for them to

hold disciplinary proceedings for remaining unauthorized absent and to pass punishment order. Having regard to the fact that he was in service from 1993 to 2003.

In view of the facts and circumstances of the case, since the petitioner is out of service from 15.12.2003, at this juncture, it is not appropriate to direct the respondents to reinstate him with continuity of service and back wages. Therefore, the compensation awarded by Labour Court for a sum of Rs.25,000/- is enhanced to Rs.5,00,000/- for the reasons that the petitioner has rendered service from 1993 to 2003 and he is before the Labour Court from 2004 to 2010 and from 2012 to this date. If the compensation amount of Rs.5,00,000/- is not disbursed within a period of six months, the petitioner is entitled to interest @ 9% per annum.

Accordingly, petition stands disposed of.

August 17, 2016

m. sharma

**(P.B. BAJANTHRI)
JUDGE**

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No