

CWP No. 1706 of 2016

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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP No. 1706 of 2016.  
Date of Decision : 11.05.2016.

Raj Kapoor

...Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala

...Respondents

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

- 1) *Whether Reporters of the local papers may be allowed to see the judgment?*
- 2) *To be referred to the Reporters or not?*
- 3) *Whether the judgment should be reported in the Digest?*

Present: Mr. Karamveer Singh Banyana, Advocate  
for the petitioner.

Mr. Raj Kumar Makkad, Deputy Advocate General,  
Haryana.

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**P.B. Bajanthri, J.(Oral)**

The instant writ petition has been filed under Articles 226/227 of the Constitution of India for setting-aside the impugned Award dated 26.09.2013 (Annexure P-4) and further a direction to the respondents to re-instate the petitioner in service with full back wages along with continuity of service.

Facts of the case are that petitioner was subjected to disciplinary proceeding on the allegation that he remained unauthorized absent from 15.05.2002 to 07.02.2003 and the

other allegation is that he had misappropriated the money collected as a Conductor. He was subjected to parallel proceeding in respect of mis-appropriation of money in the departmental proceedings. Charges were proved and his services were removed on 25.03.2004. The petitioner preferred an appeal on 17.04.2006, which was rejected. Thereafter, the petitioner had approached the Labour Court. The Labour Court passed the impugned award dated 26.09.2013 in favour of the respondents. Hence, this petition.

It is pertinent to mention here that in the criminal proceedings, the petitioner had been acquitted by the Court of learned Chief Judicial Magistrate, Kurukshetra vide judgment dated 09.06.2010. However, respondents did not prefer any appeal against that judgment. Thus, it has attained finality.

Labour Court considered the acquittal of the petitioner. However, it is distinguished the fact that criminal as well as departmental proceedings are altogether different, therefore, acquittal of the petitioner in criminal proceedings could not bear on removal from service, whereas disciplinary authority should re-examine whether parallel proceedings are identical like charge, witnesses and evidence adduced. If these issues are identical then disciplinary authority has to reconsider the question of penalty in this matter.

In view of these facts and circumstances, the

respondents are directed to re-examine the matter. Having regard to the fact that in criminal case, the petitioner has been acquitted, modify the penalty of removal from service with reference to the charge that the petitioner remained unauthorized absent for the period from 15.05.2002 to 07.02.2003. Decision on the aspect is concerned be passed within a period of three months from today on receipt of certified copy of this order.

Petition stands disposed of in above terms.

**May 11, 2015.**  
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**(P.B. BAJANTHRI)**  
**JUDGE**