

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

CWP No.24802 of 2013

Date of Decision:27.10.2016

Davinder Verma

... Petitioner

Vs.

Presiding Officer and others

... Respondents

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

Present : Ms. Alka Chatrath, Advocate for the petitioner.
 Mr. T.N. Sarup, Addl. A.G. Punjab.
 Mr. Vikas Singh, Advocate for respondent No.4.

P.B. BAJANTHRI J.

In the instant writ petition, the petitioner has assailed the award passed by the Labour Court dated 20.5.2013.

The petitioner is stated to have been appointed as Mates (Semi-Skilled) on 27.10.2001 in the pay scale of Rs.900-1250 (unrevised) + usual allowances on a probation period of one year. The petitioner probation period completed on 26.10.2002. The same was extended upto 31.5.2003. In the meanwhile, 4th respondent alleged to have noticed that the petitioner is stated to have produced experience certificate issued by the Picadily Sugar and Allied Industrial Limited that petitioner was appointed as a Mate and he had a experience during the period from March 1995 to July 2000. The said certificate is stated to be fake/forged one. While holding certificate is fake, petitioner's services have been terminated vide order dated 17.4.2003 (Annexure P-10). The petitioner raised industrial dispute and

reference was decided on 20.5.2013 while upholding the order of termination. The Industrial Tribunal framed issue “Whether termination of services of workman Davinder Verma is illegal and unjustified? If yes, to what relief he is entitled?”. The Industrial Tribunal held that there is no merit in issue No.1. Consequently, reference was decided against the workman and in favour of the management. Feeling aggrieved by the award of the Labour Court dated 20.5.2013, the present petition has been presented.

Learned counsel for the petitioner submitted that at the time of selection and appointment to the post of Mate in the 4th respondent, the petitioner had produced experience certificate dated 20.8.1994 (Annexure P-3) issued by the Suraj Cotton Factory during the period from February 1985 to 31.3.1988 and not one which has been cited in the order of termination namely experience certificate issued by the Picadily Sugar and Allied Industrial Limited. 4th respondent before coming to the conclusion that the experience certificate issued by Picadily Sugar and Allied Industrial Limited is a fake/forged one, petitioner has not been heard and the decision has been taken behind the back of the petitioner. Therefore, the order of termination is liable to be set aside. It was further submitted that the petitioner was appointed on probation as a Mate and before terminating his services, he should have been subjected to disciplinary proceedings under the disciplinary regulation governing the petitioner. Even on this count, the order of termination is liable to be set aside. The Industrial Tribunal failed to appreciate that holding the experience certificate as fake/forged by the 4th respondent is behind the back of the petitioner. Therefore, order of termination as well as award passed by the Tribunal are liable to be set

aside.

Per contra, learned counsel for the 4th respondent submitted that before coming to the conclusion that experience issued by Picadily Sugar and Allied Industrial Limited in favour of the petitioner is a fake/forged, the same has been examined with reference to version of the Picadily Sugar and Allied Industrial Limited. Thereafter the order of termination has been issued. The Tribunal appreciated the fact that it was a fake/forged certificate and there is no infirmity in the order of termination.

The petitioner was appointed on probation as a Mate on 27.10.2001. He was appointed against the permanent post on probation. Even if an employee is on probation and certain misconduct is committed by him, without holding an inquiry, services cannot be terminated. In the present case serious charge has been made by 4th respondent contending that experience certificate issued by Picadily Sugar and Allied Industrial Limited issued to the petitioner is a fake/forged. Before 4th respondent holding that experience certificate issued by Picadily Sugar and Allied Industrial Limited as a fake/forged, the petitioner has not been heard when the petitioner is disputing that he had produced experience certificate dated 20.8.1994 (Annexure P-3) issued by Suraj Cotton Factory and not the alleged fake certificate. Therefore, before terminating the services of the petitioner, 4th respondent should have resorted to disciplinary proceedings to hold that experience issued by Picadily Sugar and Allied Industrial Limited in favour of the petitioner and further it is a fake/forged. Such finding can be arrived only in a departmental inquiry after examination of experience certificate, author of the experience certificate etc. In the absence of giving finding in a disciplinary proceedings ordering terminating the services of the petitioner

by 4th respondent is without applying the principal of natural justice. Therefore, the award dated 20.5.2013 passed by the Labour Court so also order dated 17.04.2003 terminating the services of the petitioner are set aside. Since MARKFED Sugar Mill was closed in the year 2006, question of reinstatement of the petitioner do not arise. At this juncture, learned counsel for the petitioner vehemently contended that the persons who were working in MARKFED Sugar Mill after its closure have been adjusted through selection process. The petitioner apparently could not participate in such selection for the reasons that he was out of service as on such adjustment. Therefore, 4th respondent is directed to accommodate the petitioner in any other Mills which is under the Administrative Control of 4th respondent. If it is not possible then the 4th respondent is liable to pay compensation of Rs.5,00,000/- to the petitioner for illegal termination. Needful shall be done within a period of four months from today.

Disposed of accordingly.

27.10.2016
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**