

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

**CWP No. 26207 of 2014
Date of Decision : 25.07.2016**

Ramesh Kumar

...Petitioner

Versus

The Transport Commissioner, Haryana and another

...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. Sudhir Mittal, Advocate for the petitioner.

Mr. Anil Mehta, Deputy Advocate General, Haryana.

P.B. Bajanthri, J.(Oral)

In the instant writ petition, petitioner has assailed the award dated 04.09.2014 (Annexure P-8) passed by Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon.

The petitioner was appointed as a Conductor in the respondent-Organization on 13.01.1981. It was alleged that on 27.06.1998 petitioner while discharging the duties of the post of Conductor, he had asked the driver to took a different route and further he had issued forged tickets. On these allegations petitioner was placed under suspension on 01.07.1998. Parallel proceedings were initiated. In the criminal proceeding, petitioner is

stated to have acquitted, whereas in the disciplinary proceeding, he was punished with the penalty of termination from service on 17.03.2006.

The Labour Court framed issues and passed award dated 04.09.2014. Extracts of issues and Award are reproduced here under:-

- “1. Whether the inquiry was not fair and proper? OPW
(Issue amended vide order dated 4.9.2014)*
- 2. Whether the termination of the services of the workman is illegal and unjustified, if so to what effect? OPW*
- 3. Whether the workman has been gainfully employed? OPM*
- 4. Whether the reference is not maintainable? OPM*
- 5. Relief.*

Vide order dated 15.3.2010, issue No. 1 was treated as Preliminary issue and both the parties were asked to adduce evidence on that preliminary issue.”

AWARD

“18. As per my discussion above, the enquiry conducted by the management is held to be proper and fair in which due procedure was followed and principles of natural justice were adhered to. Hence, issue No. 1 is decided against the workman and in favour of the respondent.”

Perusal of the issues read with para 18 of the Award, Labour Court has decided only issue No. 1 against the workman. In respect of issue Nos. 2 to 4, there is no finding. Though in the body of the Award, Labour Court has discussed various issues, however, while passing the Award, only issue No. 1 has been decided.

Learned counsel for the petitioner submitted that matter in respect of issues No. 2 to 4 are silent and no decision is given.

Per-contra, learned counsel for the respondent vehemently contended that reading of the entire Award, it is crystal clear that all these issues have been considered by the Labour Court and Award has been passed. In para 18 if issue No. 1 is decided against the workman, it is deemed that further issues are decided against workman, since issues No. 1 to 4 are inter-linked.

Heard learned counsel for the parties.

Perusal of the Award in particularly framing of issuers cited (supra) as well as para 18 of the Award, I am of the view that Labour Court while passing Award, in the body of the Award all the issues were discussed. However, insofar as finding while passing Award in para 18, only issue No. 1 has been decided. Therefore, the matter is remanded to Industrial Tribunal-cum-Labour Court-II, Gurgaon to decide issues No. 2 to 4 by giving reasonable opportunity to the parties and the Presiding Officer shall not be influenced by the discussion made in the body of the Award while deciding the issues No. 2 to 4.

In view of the above facts and circumstances, the present civil writ petition is allowed in part. The Industrial Tribunal-cum-Labour Court-II, Gurgaon is requested to decide issues No. 2 to 4 within a period of 04 months from today.

No order as to cost.

July 25, 2016.
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(P.B. BAJANTHRI)
JUDGE