IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8644 of 2014
Date of decision:-08.08.2016.

Gurmeet Kaur ......Petitioner

Versus

Presiding Officer, Industrial Tribunal Patiala and others

.......Respondents

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

Present: Mr. Jagjit Singh, Advocate, for the petitioner.

Mr. A.K. Sharma, Advocate, for respondent No.3.

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B.P. BAJANTHRI, J. (ORAL)

The petitioner is a legal heir of deceased Amrik Singh-Workman. While deceased-employee was working as Driver in the respondent-Corporation on 21.02.2002 he was under intoxication and he was not on duty (it was rest day). On the allegation of misconduct committed by him on 21.02.2002 following charges have been framed against him.

> "1. On 21.02.2002 under influence of liquor coming to Bus Stand, Patiala and indulging in bad behaviour with official working there and destroying the official record.
>
> 2. Missing of 262 kilometers on 22.02.2002 and by way of absence from duty causing loss of Rs. 3370/- to the Corporation.
>
> 3. Creating bad image of the Corporation in the public and negligence in discharge of duty.
>
> 4. Misconduct."

In the disciplinary proceedings, the charges relating to item No. 2 to 4 were proved and item No. 1 was not proved. Based on the inquiry officer's finding the disciplinary authority punished the deceased-Amrik Singh by dismissing him from service. Aggrieved by the order of dismissal dated 11.07.2003, the petitioner preferred an appeal before the appellate authority. The same was rejected. Industrial dispute was raised On 22.10.2013, the Industrial Tribunal, Patiala upheld the order of termination. In the meanwhile deceased-Amrik Singh died on 02.09.2009. Consequently, legal heirs of the deceased employee-Amrik Singh presented the appeal.

Learned counsel for the petitioner submitted that charge No. 2 to 4 were alleged to have been proved. The deceased employee has served 12 years of service in the respondent-corporation. Deceased employee on 21.02.2002 was on rest day and he was not on duty. Therefore, alleged charge which has been proved in inquiry and imposition of penalty of dismissal from service is too harsh and disproportionate to the charges. It was further contended that the charges are very vague. Therefore, award dated 22.10.2013 is to be set aside.

Per contra learned counsel for the respondent-Corporation submitted that having regard to the nature of charge that the petitioner was under influence of liquor, indulging in bad behaviour with official, destroying official record and because of his behaviour, the corporation was put into loss to the tune of ₹ 3,370/- so also conduct of the deceased employee has damaged the reputation of the Corporation, therefore, the respondent-corporation has imposed the highest penalty of dismissal from service. Even labour Court has appreciated the charge as well as misconduct of the petitioner while upholding the order of dismissal from service. Thus there is no infirmity in the award.

Heard learned counsel for the parties.

From perusal of the records, it is evident that though charge No. 1 is very serious even though he was not on duty, however, same has not been proved. In respect of charge No. 2 to 4, reading of the charges reveals no ingredients to frame charge. Therefore, very framing of charge itself is not in accordance with procedure. Even if the charges no. 2 to 4 are taken into consideration it is relating to causing loss of ₹ 3370/- to the corporation. Charge No. 3 and 4 are with reference to charge No. 1. Therefore, imposing highest penalty of dismissal from service is highly unreasonable for the reason that deceased employee has rendered 12 years of service. Hence, respondent-Corporation is directed to convert the dismissal order to that of compulsory retirement from the date of dismissal. Since deceased employee died on 2.9.2009 and LRs are on record, the respondents are directed to convert the dismissal order to that of compulsory retirement from 11.07.2003 the date on which deceased-employee was dismissed. Release all monetary benefits as per rules to the legal heirs of the petitioner within a period of 3 months. If the monetary benefits are not released within a period 3 months, the petitioner would be entitled to interest @ 9 % after three months.

(P.B. BAJANTHRI)
JUDGE

08.08.2016
PA

Whether speaking/reasoned Yes/No

Whether reportable Yes/No