

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10-1988 (O&M)

Date of Decision:-07.09.2017.

Dayalbagh Spinning & Weaving Mills

.....Petitioner

Versus

The Govt. of Punjab and others

.....Respondents

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

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Present: Mr. H.N. Mehtani, Advocate for the petitioner.

Mr. Balbir Singh Sewak, Additional A.G. Punjab.

Mr. Prateek Mahajan, Advocate for respondent No.3.

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

In the instant writ petition, petitioner has challenged the validity of the award passed by the Labour Court dated 14.06.1987 (Annexure P-10).

2.) The respondent workman was appointed in the year 1975 and his services were terminated on 31.01.1981. The respondent-workman and 5 other persons were subjected to domestic inquiry on the allegations that they entered into fight in the petitioner's factory premises whereby they have violated para 14 (2), 14 (3) (a) & (h) of Certified Standing Orders of the Company. On 18.11.1980, petitioner and 5 others were placed under suspension and simultaneously, they were charge-sheeted. The respondent-workman submitted his reply to the charge-sheet stating that he has not

fought with any co-workers and he was mediating in dispute. The reply of the respondent-workman was not satisfied by the petitioner-Company. Consequently petitioner-Company proceeded with the inquiry. Inquiry was concluded in imposing the penalty of termination from service on 31.01.1981. Thus, the respondent-workman raised the industrial dispute. The Labour Court passed an award on 14.6.1987 that the respondent-workman is entitled to reinstatement with continuity of service and full back wages. Feeling aggrieved by the award passed by the Labour Court, petitioner has presented this petition.

3.) Learned counsel for the petitioner submitted that Labour Court framed the following issues:-

- “1.) Whether any valid departmental inquiry was held against the workman?*
- 2.) Whether termination of the services of the workman is justified and in order?*
- 3.) Relief.”*

It was submitted that insofar as first issue whether any valid departmental inquiry was held against the workman or not has not decided and appreciated by the Labour Court despite the Inquiry Officer's report which is evident that inquiry was held in accordance with law. Therefore, Labour Court erred in passing the award in favour of the respondent-workman.

4.) Per contra, learned counsel for the respondent-workman resisted the petitioner's claim and pointed out that Labour Court has appreciated the Management witnesses like Rajender Pal to the extent that respondent-workman has no role in fighting except his presence. Therefore,

there is no infirmity in the award dated 14.6.1987.

5.) Heard learned counsel for the parties.

6.) Before advertng to the contentions of the parties, it is relevant to peruse charge-sheet dated 18.11.1980 (Annexure P-2). Charge-sheet has been filed against respondent-workman and 5 others. Under para 14 (2), (3), (a) & (h) of Certified Standing Orders. Para 14 of the Certified Standing Orders relates to disciplinary action for misconduct. (2) relates to A workman may be suspended for a period not exceeding four days at a time or dismissed without notice or any compensation in lieu of notice, if he is found to be guilty of misconduct and (3) relates to Which are the acts and omissions shall be treated as misconduct. (3) (a) relates to willful insubordination or disobedience, whether alone or in combination with others to any awful or reasonable order of a superior and (h) relates to Riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline. Perusal of the entire Certified Standing orders, it is not evident under which paragraph Inquiry Officer has been appointed and so also powers and functions of the Inquiry Officer and procedure of holding inquiry. Whereas the respondent-workman, if he is alleged to have committed any misconduct, there is no provision of appointment of Inquiry Officer and so also procedure for inquiry. That apart the charge do not specify what is the role played by respondent-workman and 5 others. Charge-sheet is also not supported by statement of imputation, list of witnesses, list of documents etc. These are are lacunae in the inquiry proceedings. The same has not been taken into consideration by the Labour Court before giving finding in respect of first issue.

7.) Insofar as the contention of the petitioner that Labour Court

Court has committed error, it is not appropriate at this distance of time to remand the matter to the Labour Court, since the order of termination of the respondent-workman relates back to 31.01.1981. Labour Court decided Reference on 14.06.1987 and the fact that during pendency of this petition, respondent-workman has been paid wages under Section 17-B from 6.4.1988 to 30.4.2009 file attaining 60 years by the respondent-workman. In view of the above facts and circumstances, the award dated 14.6.1987 is modified to the extent that respondent-workman is entitled to compensation only apart from wages already paid under Section 17-B of the Industrial Disputes Act, 1947. Petitioners are hereby directed to pay compensation of ₹ 2,00,000/- within a period of six months from today, failing which the petitioner is entitled to interest @ 6% per annum from today.

8.) Accordingly, petition stands disposed of.

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

**September 07, 2017.**  
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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.