

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

201

**CWP-13119-1996 (O&M)
Date of decision:04.08.2017**

Ajit Singh

....Petitioner

Versus

The Presiding officer, Laour Court, Jalandhar and another

.... Respondents

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

Present: Ms. Monika Thakur, Advocate for the petitioner.

Mr. Harit Sharma, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has questioned the validity of the Labour court award dated 05.06.1996 (Annexure P-3).

2. Petitioner was appointed as a Secretary in the respondent-Society on 15.07.1974. His services were terminated w.e.f. 06.01.1981. Petitioner while he was in service he was subjected to domestic inquiry for which the petitioner had not co-operated in the domestic inquiry. Consequently, respondents proceeded to terminate services of the petitioner w.e.f. 06.01.1981 which was the subject matter of Industrial dispute. Award passed on 20.07.1987 has been implemented reinstating the petitioner in service. Thereafter, once again petitioner was subjected to domestic inquiry. In that regard he was placed under suspension on 16.04.1992. Since petitioner has not cooperated in the domestic inquiry, the respondents have proceeded to terminate services of the petitioner on 09.07.1992. Petitioner

raised industrial dispute and the labour court was pleased to pass award on 05.06.1996 instead of reinstating and consequential benefits, compensation of Rs.35,000/- has been awarded. Thus, the present petition.

3. Learned counsel for the petitioner submitted that without holding inquiry respondents have terminated petitioner's services on 09.07.1992. It was also submitted that petitioner has not been given opportunity before domestic inquiry. Therefore, petitioner is entitled for reinstatement with consequential benefits in respect of compensation awarded by the labour court.

4. Per contra, learned counsel for the respondents pointed out from the resolution dated 27.06.1992 (Annexure P2) passed by the respondents, date of show cause notice and non-appearance of the petitioner on various dates whereas petitioner has been extended benefit of looking into the records. Despite that petitioner has failed to peruse the records and participate in the domestic inquiry. Therefore, respondents have rightly taken a decision to terminate his services. Thus, petitioner has not made out a case so as to interfere with the award passed by the Labour Court dated 05.06.1996.

5. Heard learned counsel for the parties.

6. Having regard to the conduct of the petitioner that he was subjected to domestic inquiry on two occasions and on the second occasion petitioner has not co-operated in furnishing his reply to the show cause notice and so also not participated in the domestic inquiry. Petitioner had been provided opportunity to look into the records as demanded by him.

Such opportunity has not been availed. Even perusal of Annexure P2 it is evident that respondents have not proceeded in accordance with law in respect of holding a domestic inquiry. Assuming that petitioner failed to participate in the process of inquiry it was bounden duty of the respondents to hold ex-parte inquiry by adducing necessary evidence in a domestic enquiry to prove charges leveled against employee. Thus, such procedure has not been complied before terminating petitioner's services on 09.07.1992.

7. In view of the conduct of the parties in not giving a shape to the domestic inquiry and at this juncture remanding the matter for further enquiry from the defective stage may not be appropriate. Therefore, petitioner is entitled to enhanced compensation of Rs.35,000/- to Rs.2.5 Lacs. The respondents are hereby directed to pay enhanced compensation of Rs.2.5 Lacs within a period of 3 months from today failing which petitioner is entitled to interest @ 9% per annum with effect from today.

8. CWP stands disposed of.

04.08.2017

pooja saini

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

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No