

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

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**CWP-17054-1995 (O&M)
Date of decision:01.09.2017**

Darshan Lal

....Petitioner

Versus

Presiding Officer, Labour Court, Ambala and another

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr.Sanjiv Gupta, Advocate for the petitioner.

Mr. J.S.Bedi, Addl. A.G. Haryana.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, petitioner has challenged the validity of the award passed by the Labour court dated 02.11.1994 (Annexure P1).

2. Petitioner has joined services in the respondent- corporation as a Helper on 09.07.1984. Criminal proceedings were launched against him on 25.02.1988 on the allegation of theft of iron strips. Arising out of the alleged allegation of theft of iron strips the respondents shown their intention for initiation of domestic inquiry. On number of occasions charge sheets were filed which were withdrawn and ultimately on 29.11.1988 fresh charge sheet was issued. Thereafter, it was not proceeded on the score that petitioner filed a suit in respect of initiation of inquiry and obtained an interim order. Civil suit filed by the petitioner was decided against him. In

the meanwhile, petitioner remained absent from 26.02.1988. In the criminal proceedings, he was convicted on 29.01.1993 and thereafter on 15.10.1993, he was ordered to be released on probation. In the meanwhile, petitioner raised an industrial dispute. The labour court proceeded to pass award with reference to above facts and circumstances, that there is no termination of service and the petitioner has abandoned the services. Accordingly award was passed against the petitioner-workman. Hence the present petition.

3. Learned counsel for the petitioner submitted that respondents have prevented him in discharging the duties of the post held by him on 25.02.1988 the date on which complaint was made in respect of theft of iron strips. It was submitted that with reference to allegation of theft of iron strips respondents have initiated disciplinary proceedings by framing charge sheets on three occasions and it was withdrawn and it was not proceeded in respect of charge sheet issued on 23.02.1989. Thereafter on 29.11.1989 one more charge sheet was filed and it was also incomplete. Even though civil court decided the issue relating to initiation of inquiry against the petitioner. In the absence of finality in the initiation of disciplinary proceedings and the fact that petitioner was convicted and he was released on probation on 15.10.1993 he is entitled for reinstatement with all consequential benefits.

4. Per contra, learned counsel for the respondents resisted petitioner's claim and pointed out that petitioner obtained an interim order in the civil suit in respect of disciplinary proceedings. Therefore, their hands were tied to proceed with the inquiry. That apart, petitioner has been convicted in a criminal case. Merely, he has been released on probation

that does not give him any right for reinstatement with continuity of service etc. Hence petition is liable to be set aside.

5. Heard learned counsel for the parties.

6. Perusal of the records, it is evident that respondents have not issued any notice for the petitioner's absence from 26.02.1988 onwards. There is no judicial order relating to petitioner be taken back to duty with reference to the pendency of criminal case. Therefore, there is lapse on the part of the respondents in not issuing notice to the petitioner asking him to report for duty or for his unauthorized absence. The respondents have also not proceeded with the disciplinary proceedings initiated on 29.11.1989 after disposal of the civil suit filed by the petitioner. Further on the petitioner's conviction on 29.01.1993 read with the releasing him on probation on 15.10.1993 respondents could have resorted for dispensing his services with reference to order of conviction. Even today no orders have been passed with reference to conviction or in the disciplinary proceedings initiated by respondents on 29.11.1989. Thus, there is in-action on the part of the respondents in not taking appropriate action with reference to initiation of inquiry read with the order of conviction. Hence, labour court has erred in not considering these issues. Consequently, award passed by the Labour court is hereby set aside. Since petitioner is out of service from 26.02.1988 and he has worked from 09.07.1984 to 25.02.1988 and he has been convicted and released on probation, since the respondents have lost confidence with the petitioner. Hence, question of reinstating him do not arise. In view of the lapses on the part of the respondents in not taking

appropriate action to dispense his service at appropriate time petitioner is entitled to compensation of Rs.3 Lacs. Compensation shall be paid by the respondents within a period of 4 months from today. If the compensation is not paid within the stipulated period in that event petitioner is entitled to interest @ 6% per annum from today.

7. With these observations, petition stands disposed of.

01.09.2017
pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons	Yes/No
Whether Reportable:	Yes/No