

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14395 of 1999

Date of Decision: 15.03.2017

PEPSU ROAD TRANSPORT CORPORATION,
PATIALA & ANR.

...Petitioners

Vs.

RAM CHANDER & ANR.

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Anil Sharma, Advocate,
for the petitioners.

None for the respondent No.1.

RAJIV NARAIN RAINA, J. (Oral)

1. None is present on behalf of respondent No.1-workman. On the previous two dates also, no one appeared on his behalf. This writ petition has been filed in the year 1999. More than a decade and a half have flown by and thus the Court is left with no option but to dispose of this petition after hearing the learned counsel for the petitioners.

2. In view of the interim order of the Division Bench dated October 11, 1999 admitting the petition for hearing by staying the operation of the impugned award to the extent of the back wages, the same on reading leaves hardly any scope for this Court to do an academic hearing on the grounds taken which may only turn on wasting time and effort. The services of the petitioners were terminated on account of proven allegations inviting major misconduct of unauthorized absence from duty for more than 10 days and thereafter absence from duty and also for not depositing the amount of Tickets' Box worth ₹ 6669.20 Ps. which was in violation of the discipline

rules of the of the Corporation. The inquiry was conducted and the charges were proved. However, the Labour Court appeared not to be happy with the inquiry report upon which the management led evidence in support of the charges but predominantly the reference was answered in favour of the workman on the ground that the Deputy General Manager had passed the order of termination who is an authority subordinate to the Appointing Authority i.e the General Manager. It is for this reason that the termination was held to be unjustified. When the Labour Court reached the conclusion then it would have been in the fitness of things that the Labour Court should have remanded the case to the appointing authority to remove the defect which can be be cure by giving reasonable opportunity to the parties to cure the defect even assuming that the Deputy General Manager was not the Disciplinary Authority. This course if adopted would be in consonance with the law laid down in 'Managing Director ECIL vs. B. Karunakar' (1993) 4 SCC 727.

3. In view of long passage of time and keeping in view the interim orders passed by the Division Bench, I don't think any useful purpose would be served to analyze whether 50% back wages should be paid or not. Looking to the technical flaw on which the Labour Court answered the reference and the fact that the petitioner has been reinstated to service under the interim orders of this Court to bring about a just balance between the misconduct of the employee and the interest of the employer would persuade me to hold that this may be a case where back wages would not automatically follow. Therefore, that part of the award which awards back wages is set aside. It may be mentioned that the management was given

liberty by the Labour Court itself to deduct an amount of ₹ 6669.20 Ps. from the amount payable to the workmen as back wages.

4. As a result, this petition is partly allowed. The reinstatement and continuity would remain intact but the award is modified to the extent that the petitioner Corporation is not liable to pay any back wages as awarded by the Labour Court being unjust and inequitable.

(RAJIV NARAIN RAINA)
JUDGE

15.03.2017
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>