

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

CWP No.10880 of 2015

Date of Decision:24.08.2017

Bijender Singh

... Petitioner

Vs.

State of Haryana and others

... Respondents

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

Present : Mr. Vikas Kuthiala, Advocate for the petitioner.

Mr. Sandeep Sanwaria, D.A.G. Haryana.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has challenged the award passed by the Labour Court dated 11.11.2014 (Annexure P-6) by which action of the respondents in terminating the services of the petitioner has been upheld.

Petitioner was initially appointed on contract basis as driver on 26.6.2008. Thereafter his services were regularized on 5.10.2011. Respondents noticed that petitioner had produced matriculation certificate which was not in order so also noticed that petitioner failed to pass matriculation examination. Consequently, show cause notice was issued to the petitioner on 11.1.2012 to the petitioner. After receipt of reply to the show cause notice, respondents proceeded to pass order terminating the service of the petitioner on 5.7.2012. Thus, petitioner has raised industrial dispute. Labour Court while deciding reference No.1 of 2014 affirmed the order of dismissal passed on 5.7.2012 by the respondents. Hence, the present petition.

Learned counsel for the petitioner submitted that petitioner is a regular employee of the respondents. On 5.10.2011, his services were

regularized. Therefore, before terminating and dismissing him from service, a domestic inquiry is required under Disciplinary and Appeal Rules of the Haryana Roadways or Haryana Civil Services (Disciplinary and Appeals) Rules 1987. Thus, in not resorting to holding of domestic inquiry and passing order of dismissal would be contrary to the discipline and appeals regulations/Rules. The said issue has not been appreciated by the Labour Court. Therefore, award passed by the Labour Court dated 11.11.2014 is liable to be set aside.

Per contra, learned counsel for the respondents vehemently contended that petitioner has played fraud while obtaining appointment to the extent that he had produced false matriculation certificate. Having regard to the conduct of the petitioner in obtaining order of appointment with the respondents, petitioner is not entitled for relief sought in the present petition so also there is not infirmity in the award passed by the Labour Court.

Heard learned counsel for the parties.

Undisputedly, petitioner was appointed on contract basis on 26.6.2008. Thereafter, his services were regularized on 5.10.2011. Thus, petitioner is regular employee of the respondents. If any misconduct has been committed by the petitioner, both petitioner and respondents are bound by regulation like disciplinary and appeals rules to prove the alleged misconduct. The respondents side tracked the disciplinary and appeals rules and proceeded to issue show cause notice and further terminated and dismissed the services of the petitioner. Thus, the labour Court has erred in not noticing the fact that petitioner was regular employee before his termination or dismissal, domestic inquiry is required to be followed under

the disciplinary and appeals Rules adopted by the Haryana Roadways. Hence, the award passed by the Labour Court dated 11.11.2014 (Annexure P-6) is set aside. Respondents are hereby directed to reinstate the petitioner with all consequential benefits including monetary benefits. Monetary benefits shall be calculated and disbursed to the petitioner within a period of three months from today. Reserving liberty to the respondents to hold a domestic inquiry under the discipline and appeals rules adopted by the Haryana Roadways and the same shall be initiated and completed within a period of six months from today. Petitioner is hereby directed to co-operate in the disciplinary proceedings.

With the above observation, petition stands allowed.

24.08.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**