

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

**209**

**CWP-17287-2012 (O&M)  
Date of decision:01.12.2017**

Barkha Ram

....Petitioner

Versus

The Presiding Officer, Labour Court, Ambala and another

.... Respondents

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

Present: Mr. J.S.Cooner, Advocate for the petitioner.

Mr. Y.S.Turka, Advocate for respondent No.2.

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

In the instant writ petition, petitioner has challenged the award  
award passed by the Labour Court dated 14.03.2012 (Annexure P1).

Petitioner is stated to have been appointed as Smith Forging  
Instructor on 06.08.2008. Pursuant to the order of appointment, he has  
joined respondent-institution on 14.08.2008. On 13.11.2009 on certain  
allegations, respondent-institution issued a notice of termination which  
would be w.e.f. 30.11.2009. Consequently, petitioner's services have been  
dispensed w.e.f. 30.11.2009. Thus, petitioner raised industrial dispute.  
Labour court proceeded to pass award against the petitioner while  
extending the benefit of salary for 13 days w.e.f. 1.11.2009 to 13.11.2009.  
Hence the present petition in challenging the award passed by the labour

court.

Learned counsel for the petitioner submitted that based on certain allegations in the notice dated 13.11.2009 respondent-Institution without holding inquiry proceeded to issue notice of termination which would be effected from 30.11.2009 issued on 13.11.2009 and the same has been given effect. It was submitted that petitioner was appointed on regular basis as a Smith Forging Instructor. If there were allegations against the petitioner in that event respondent-institution should have proceeded with domestic inquiry. Without holding domestic inquiry they have proceeded to issue order of termination-cum-notice on 13.11.2009. The termination is based on the allegations. Allegations were without enquiry this issue has not been taken note of by the Labour Court to the extent that inquiry is warranted. Thus, labour court has erred in extending salary benefit only.

Per contra, learned counsel for the respondents while resisting the petitioner's claim submitted that labour court has taken note of the allegations as well as notice of termination dated 13.11.2009. It was further submitted that petitioner refused to report for duty after 13.11.2009. In other words, petitioner abandoned the services. Hence he is not entitled for any relief.

Heard learned counsel for the parties.

Crux of the matter in the present petition is whether inquiry against the petitioner is warranted or not having regard to the allegations stated in the notice dated 13.11.2009. Petitioner is regularly appointed to the post of Smith Forging Instructor in the respondent-institution on

06.08.2008. If the allegations were made against the petitioner for his termination-cum-notice in that event domestic inquiry is attracted. Without holding inquiry based on the allegations, termination is illegal and highly arbitrary. Aforesaid issue has not been taken note of by the labour court. Accordingly, labour court award dated 14.03.2012 (Annexure P1) is set aside. Petitioner is entitled for reinstatement with 50% back wages.

Accordingly, CWP stands allowed in part.

**01.12.2017**

pooja saini

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

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No