

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

CWP No.14356 of 2013

Date of Decision:20.07.2017

Uttam Kumar

... Petitioner

Vs.

The Presiding Officer and another

... Respondents

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

Present : Ms. Abha Rathore, Advocate for the petitioner.

Mr. Mohak Bhadana, Advocate for respondent No.2.

P.B. BAJANTHRI J. (Oral)

In the instant petition, the petitioner has assailed the award passed by the Labour Court dated 28.2.2013 (Annexure P-6).

The petitioner is stated to have been working with the respondents from 1.6.1995 to 24.4.2004. He was charge-sheeted for certain misconduct relating to abusing the guard of the respondent-management so also threatened to go on strike. Such allegations were made against the petitioner and three others. Petitioner was subjected to disciplinary proceedings. Thereafter, on 24.4.2004, petitioner's services were dispensed by imposing the penalty of termination. Thus, the petitioner has raised industrial dispute. Industrial dispute was decided on 28.2.2013 against the petitioner-workman. Hence, the present petition.

Learned counsel for the petitioner submitted that alongwith the charge-sheet, list of documents and list of witnesses have not been furnished and prime witness has not been examined in the disciplinary proceedings.

As is evident from the record, it is crystal clear that no proper inquiry has

been held against the petitioner. It was also submitted that insofar as other employees against whom charge-sheet has been issued, the respondent-Management entered into a compromise and they have been taken back to duty. Petitioner has been made scapegoat. These issues were raised before the Labour Court. However, the Labour Court failed to appreciate and proceed to pass order against the petitioner. Therefore, award passed by the Labour Court is liable to be set aside.

Per contra, learned counsel for respondent No.2 submitted that having regard to the conduct of the petitioner that he threatened the guard of the respondent-management so also threatened for going on strike etc. are the allegations which are in violation of standing orders. Consequently, as per the standing orders, respondent-management proceeded to initiate inquiry and pass final order of termination. Thus, there is no infirmity. In fact, Labour Court has appreciated the disciplinary proceedings so also taking into account the fact that petitioner has threatened the staff of the respondent-management etc. Thus, the petitioner has not made out a case for interference.

Heard learned counsel for the parties.

Perusal of the record, it is evident that alongwith the charge-memo, list of documents and list of witnesses were required to be furnished. The same has not been done. Supreme Court in the case of **Union of India v. Gyan Chand Chattar and others**; 2009(12) SCC 78 held that charge-sheet must accompany list of documents and list of witnesses. In the absence of the same, there is a defect to the extent in not furnishing list of documents and list of witnesses. Therefore, disciplinary proceedings would be vitiated.

In the present case, instead of remanding the matter for holding a fresh inquiry from the stage of issuance of charge-sheet, petitioner is satisfied with the compensation for the reasons that petitioner is out of service from 24.4.2004 to this day.

In view of the above facts and circumstances, respondents are liable to pay compensation of Rs.6,00,000/- to the petitioner within a period of four months from today. Failing which petitioner is entitled for simple interest @ 6% per annum. The above compensation is in final settlement between the petitioner and respondent-management.

Disposed of accordingly.

20.07.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**