

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 15359 of 2014 (O&M)
Date of Decision: October 04, 2017

General Manager, Haryana Roadways, Ambala and another

... Petitioners

Versus

Baljeet Singh and another

... Respondents

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

Present: Mr. Rajesh Gaur, Addl. A.G., Haryana.

Mr. R.P.S. Ahluwalia, Advocate,
for respondent No.1.

P.B. Bajanthri, J. (Oral)

1. In the instant writ petition, petitioners have challenged the award of the Labour Court dated 28.02.2014 (Annexure P/9).

2. Respondent No.1 while working as Assistant Fitter, he was subjected to disciplinary proceedings. Petitioner – Management initiated inquiry by framing charges on 16.04.2004. Respondent-workman stated to have submitted his reply denying the alleged charge. Consequently, inquiry officer was appointed and inquiry was held. Report was submitted to the disciplinary authority on 10.05.2004. The date of submission of inquiry report is disputed by respondent no.1 to the extent that it was issued only on 14.06.2004 i.e. much after dismissal from service dated 18.05.2004. The dismissal order was subject matter of industrial disputes. The Labour Court proceeded to pass award in favour of respondent-workman. Hence, the present petition by the petitioners-management.

3. Perusal of the record, it is evident and it is also undisputed that after receipt of Inquiring Officer's report by the disciplinary authority and not issuance of show cause notice and seeking respondent-workman's explanation on the Inquiring Officer's report, petitioners – management proceeded to impose penalty of dismissal from service. Therefore, there is no infirmity in the award passed by the Labour Court. There is a legal lacuna in not complying the issuance of show cause notice on the Inquiring Officer's report to the petitioner before passing order of dismissal, therefore, Labour Court award is modified. The petitioners are hereby directed to proceed from the defective stage, namely, issuance of show cause notice to the respondent-workman while enclosing inquiring officer's report and seek the respondent-workman's explanation and then proceed for passing a final order in the disciplinary proceedings. During the intervening period from 18.05.2004 from the date of dismissal till passing of final order by the petitioners, respondent-workman is deemed to be under suspension. The petitioners are hereby directed to calculate subsistence allowance from 18.05.2004 till date and disburse the same within a period of three months from today. Further, the petitioners are directed to continue to pay the subsistence allowance till passing of a final order in the disciplinary proceedings.

4. With the above observations, present petition stands disposed of.

October 04, 2017

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**[P.B. Bajanthri]
Judge**

Whether reasoned / speaking : Yes

Whether reportable : No