

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

Date of decision: 03.04.2017

CWP No.13791 of 2016

Director, Transport, UT, Chandigarh

...Petitioner

Vs.

Presiding Officer, Industrial Tribunal -cum- Labour Court, UT, Chandigarh
& another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Suvir Sehgal, Senior Advocate, with
Mr. Rakesh Sobti, Advocate, for the petitioner.

Mr. H.S.Hundal, Advocate, for respondent No.2.

RAJIV NARAIN RAINA, J.

The Enquiry Officer has based his conclusion of guilt on suspicion, but suspicion is not proof. Passengers ticket booked by respondent No.2 – Sakinder Singh (Conductor No.841) on 14.02.2000 for the Chandigarh – Delhi route were reissued on 06.03.2000 by another Conductor, namely, Harcharan Singh (Conductor No.391). It was assumed that the tickets booked and sold by Sakinder Singh were reissued by Harcharan Singh on the Delhi route and, therefore, the charge against Sakinder Singh instituted vide charge-sheet dated 28.04.2000 was said to be proven.

Harcharan Singh was working on the post of Advance Booker and had admittedly reissued used tickets. The fact remained that respondent Sakinder Singh had not issued the disputed tickets, which were entered in

the docket. It came by in evidence that tickets once issued are never collected by the Conductor.

As a result of the charge-sheet punishment was inflicted; the pay of the respondent Sakinder Singh was reduced to the minimum of the time scale for a period of ten years. It was ordered on 23.02.2007 that he will, in addition, not earn increments of pay during the period of reduction and also that on the expiry of this period, the reduction will have the effect of postponing his future increments of pay. His suspension period w.e.f. 05.04.2000 to 04.07.2000 was treated limited to the grant of subsistence allowance already paid.

The cause of the workman was espoused by the Union in raising a dispute with the authorities falling in Section 2(k) of the Industrial Disputes Act, 1947 regarding the punishment. The learned Presiding Officer, Industrial Tribunal and Labour Court, UT, Chandigarh vide impugned Award dated 14.07.2015 has held that the findings of the Enquiry Officer are merely based on suspicion and therefore charge cannot hold. The Labour Court has observed as follows after perusal and understanding the enquiry report:

“...There was no evidence before the Inquiry Officer to come to a conclusion that the workman had given the sold tickets to Shri Harcharan Singh for reissuing the same. The Inquiry Officer has given his report on basis of suspicion and not on the basis of conclusive proof. Inquiry report given on the basis of suspicion cannot stand in the eyes of law. As pointed out by learned representative for the workers' union even Shri Harcharan Singh against whom there was main charge of reissuing already sold tickets has been reinstated by my learned Predecessor vide award dated 11th August, 2011 by holding that there was no material before the Inquiry Officer to hold the workman (Shri Harcharan Singh) guilty of the charges framed against him and the inquiry report suffers

from conjectures and surmises. The award dated 11th August, 2011 has been upheld by Hon'ble Punjab & Haryana High Court – vide order dated 14th May, 2015 passed in CWP No.5752 of 2012. In the light of discussion made above, the impugned order dated 21st August, 2006 bearing endorsement No.302/ECC/CTU-1/07, dated 23rd February, 2007 is set aside and the management is directed to release the consequential benefits and arrears thereof to the workman. Accordingly, this issue is decided in favour of the workers' union and against the management.”

On the material available on file, the Labour Court, to my mind, has reached a just and fair conclusion that the impugned order dated 21.08.2006 bearing endorsement dated 23.02.2007 is illegal and was rightly set aside. The discussion on the points involved in the Award leaves no manner of doubt that the Labour Court Award does not suffer from any error apparent on the face of record or fundamental flaw in the reasoning applied and the findings arrived at in favour of the Union/workman are on proper appreciation of the evidence and I would endorsed them, there being no direct evidence of commission of misconduct to establish guilty. There is no legal infirmity in the work under review. The view taken is eminently a plausible and reasonable view and a possible one, even on weighing the preponderance of probabilities.

As a result, the writ petition stands dismissed.

03.04.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>