

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

Date of decision: 23.02.2017

CWP No.6006 of 2011

Pepsu Road Transport Corporation

...Petitioner

Vs.

Industrial Tribunal & Labour Court, UT, Chandigarh & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Balwinder Singh, Advocate, for the petitioner.

Mr. A.S.Salar, Advocate, for respondent No.2.

RAJIV NARAIN RAINA, J.

I find no reason to upset the well reasoned Award passed by the Presiding Officer, Industrial Tribunal cum Labour Court, Union Territory, Chandigarh allowing the reference in part and striking down the order dated 07.07.2000 as illegal, non est and not binding on the rights of the respondent – workman. The Tribunal has carefully separated this order from the rest of the impugned earlier orders dated 08.03.1991, 06.06.1996, 20.08.1998 & 29.06.1999 and held them to be legal and binding on the workman and the claim of the Union representing the cause of the respondent – workman has been rightly rejected.

The charge of misconduct alleged against the workman was of embezzling ticket fare by taking money from passengers, but not issuing them tickets. The disciplinary proceedings began when a surprise check was conducted in the bus in which the workman was a deputed as a conductor

journeying from Chandigarh to Bhudajorh on 29.06.1997. The Conductor's defence was that at the time of checking, there was a Thekedaar (Contractor) travelling in the bus accompanied by 19 passengers from Ganganagar to Padampur who were his workforce. The Thekedaar had bought tickets for all of them. He disclosed to the Inspectors checking the bus in a surprise raid that he had misplaced the tickets. The checking staff procured nineteen tickets of ₹10/- each from the workman and left the bus. Meanwhile, the Thekedaar returned to the respondent workman and told him that he had found the tickets in his inner pocket, which he could not locate at that time. The workman collected those tickets from the Thekedaar and noted his contact address. During the course of departmental inquiry, the workman produced Bhupinder Pal, the Thekadar, who deposed that he was taking along with him 18 labourers and gave ₹200/- to the delinquent Conductor out of which the Conductor returned him ₹10/- and issued like number tickets. The Tribunal read this evidence carefully and found from the cross-examination of Bhupinder Pal, Thekedaar (Contractor) that tickets were indeed produced during the course of inquiry. The Tribunal relied upon the testimony of Bhupinder Pal as not unbelievable. The finding has been returned by the Tribunal for the reason that the Enquiry Officer had not attached due weightage to the testimony of the defence witness and has only relied upon the statements of witnesses of the Department. This according to the Industrial Tribunal had caused great prejudice to the workman due to non-appreciation of statement of defence witness Bhupinder Pal deposing in favour of the delinquent Conductor. Accordingly, the Tribunal has found the impugned order dated 07.07.2000 (Ex.M5) as illegal and not sustainable in law.

When the Tribunal has exercised its judicial discretion after appreciating the entire evidence on record, then interference in writ jurisdiction is not called for only to reach a different conclusion on the same evidence. I have, therefore, no doubt that this petition filed by the PRTC against the Award has no merit. There is no fundamental flaw or error apparent on the face of record in reaching the conclusions reached after assigning proper reasons. If the defence of the workman has been believed true after appreciating the evidence adduced on record, I would be loath to interfere in the Award without any cogent reason, which I find difficult to search from the work of the Tribunal, to upturn the plausible and possible findings recorded in the impugned Award. Accordingly, the petition has no merit and is hereby dismissed.

23.02.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

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