

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-3787-2014 (O&M)
Date of Decision:-31.08.2017.

The Manager, Sri Dashmesh Senior Secondary Public School

.....Petitioner

Versus

Shri Sudama Parsad and another

.....Respondents

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

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

Mr. H.P.S .Ishar, Advocate for respondent No.1.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the validity of the award passed by the Labour Court dated 22.01.2014 (Annexure P-1).

2.) Respondent-workman was appointed as a Peon on 25.05.1984. Thereafter, his services were confirmed on 23.04.1987. On certain allegations, petitioner was placed under suspension on 26.10.1998. Thereafter, the order of suspension was revoked and petitioner was reinstated on 08.03.1999. On 09.12.2004, the respondent-workman is alleged to have committed certain misconduct like misbehaving with the staff of the petitioner-institution. Arising out of the complaints made by the staff of the petitioner-institution, Board of Inquiry was constituted for

holding an inquiry. After holding inquiry, respondent-workman's services were terminated on 31.01.2005. Thus, the petitioner raised an industrial dispute. The Labour Court passed award in favour of the respondent-workman to the extent of reinstatement with continuity of service and 30% back wages from the date of demand notice dated 01.08.2005. Hence, the present petition.

3.) Learned counsel for the petitioner vehemently submitted that respondent-workman was given ample opportunity in the domestic inquiry held by the petitioner-institution. Respondent-workman has admitted guilt on 29.01.2005 (Annexure P-8). In view of these facts and circumstances, the Labour Court has erred in holding that respondent-workman is entitled to reinstatement with continuity of service and 30% back wages.

4.) Per contra, learned counsel for the respondent-workman submitted that no charge sheet has been filed which is supported by evidence of Principal – MW-1 (Annexure P-11). In other words, procedure for domestic inquiry has not been followed. That apart, it was submitted that order of termination itself do not contain the evidence how the charges levelled against the respondent-workman got proved. Thus, the order of termination is a non-speaking order and liable to be set aside. These issues have been taken into consideration by the Labour Court and the Labour Court proceeded to pass award in favour of the respondent-workman. Therefore, there is no infirmity in the award passed by the Labour Court.

5.) Heard learned counsel for the parties.

6.) Undisputedly, petitioner-institution have not framed charge sheet. In other words, directly Board of Inquiry was constituted and inquiry

workman's services have been terminated on 31.1.2005. Perusal of the order of termination dated 31.01.2005 (Annexure P-9), it is evident that there is no discussion relating to the alleged charge. Extract of the termination order reads as under:-

“4. It has been observed with concern that you are chronic case of indiscipline, arrogance, intolerable behavior with the habit of cooking false stories/allegations against others. Keeping in view of your poor past record and a serial chain of incidents happened on 06 Dec 2004 whereby using abusive language against the teachers, damaging school property and causing sense of insecurity among the students, your services are considered detrimental to the school. You were given a number of chances in the past to improve your attitude and behaviour towards the school which you have failed to do so as is evident from the incident took place on 06 Dec 2004, hence your service are terminated vide Para 101 (b) read in conjunction with para 96 Chapter-7 of Rules and Regulations of the School.

5. You are given two months notice from the date of issuance of Show Cause Notice i.e. 23 Dec. 2004 and your services will be treated as terminated w.e.f. 23 Feb 2005.”

Reading of the above decision of the disciplinary authority, it is not crystal clear. The observation made is very vague which do not contain the dates and events so also how those allegations were proved except stating that incident happened on 6.12.2004 that the respondent-workman adduced evidence and nothing has been taken into consideration.

Therefore, order of termination is not a speaking order. In view of the

above facts and circumstances, no interference is called for in respect of the

Labour Court award dated 22.01.2014 (Annexure P-1).

7.) Writ petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

August 31, 2017.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.