

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

114

CWP No.26454 of 2017

Date of decision:20.11.2017

Niranjan Singh

....Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

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

G.S. SANDHAWALIA, J. (Oral)

Petitioner challenges the order dated 11.03.2010 (Annexure P-7) whereby the petitioner's contractual service as a Conductor has been terminated and nothing has been given for the suspension period. The orders dismissing the appeal and revision are dated 27.12.2010, 22.06.2012 and 23.01.2017 and upholding the said order are also subject matter of challenge (Annexure P-9 to 11, respectively).

While terminating the services of the petitioner, which was on contractual basis, it was noticed that a detailed enquiry report had been presented in which the charges leveled had been found proved. Accordingly, while noting that there was an embezzlement of Rs.210/- earlier also and while perusing the earlier service record, the said order was passed.

Counsel for the petitioner has vehemently submitted that the past record was taken into consideration and the services were dispensed with in a summary manner and therefore, same was not justified.

The said argument does not cut much ice with this Court. Admittedly, the petitioner was appointed on contractual basis on 23.04.2004. Initially, his contract had been terminated on 22.06.2007, on

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account of embezzlement of Rs.210/-. However, keeping in view the appeal filed, he was reinstated w.e.f. 23.06.2008 on contract basis again but his previous service period was not to be taken into consideration.

Unfortunately, the petitioner failed to mend his ways and on 11.02.2009, it was found that 6 passengers were travelling without tickets from Sanjay Colony, Faridabad to Gurgaon, from who, the petitioner had already charged Rs.120/-. During the inspection, 6 tickets were found punched but in a wrong manner in a hurry and accordingly, departmental proceedings were initiated against the petitioner.

As noticed, the petitioner is not a regular employee but in order to ensure that his services were not dispensed with in a summary manner, the Department had appointed an Enquiry Officer. It was, accordingly, noticed by him that punching was done at the wrong places and the defence taken was that the petitioner was injured in the fingers and the vehicle had suddenly stopped, was not justified, as the petitioner would have taken medical aid if there was any injury on the fingers. There was no medical record annexed to show that he had suffered any injury which restricted his finger movement which had led to the wrong punching. Admittedly, the tickets had been recovered from him and not from the passengers and it is well known that in such circumstances, Conductors sometimes keep the tickets with them for punching at the last moment in order to avoid surprise inspection. It is in such circumstances the enquiry report came against the petitioner which had led to the punishment order being passed.

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The argument that the past record was also unnecessarily gone into and the show cause notice does not depict the same, is without justification. The punishing authority has noted that on 6 earlier occasions also, the petitioner had also embezzled amounts, the details of which are given and for which, amounts had been recovered from him.

In appeal, this factum has also been noticed that on an earlier occasion also, the petitioner's services had been dispensed with. A contractual employee whose track record had been bad, now cannot claim that earlier conduct could not have been taken into consideration. The reasoning, as such, given not to retain him in service and terminate his contract, is well justified, in such circumstances. Therefore, the argument raised that he was not given any opportunity regarding his earlier record, is without any basis. Petitioner was well aware of the earlier misappropriation and his termination from service and therefore, cannot, now, turn around and say that it is detrimental, as such. The disciplinary proceedings, in the present case, were rightly done in a summary manner, as he was not a regular employee, as such, and therefore, it was only to comply with the principle of natural justice. An Enquiry Officer was appointed, as such, though his services could also be dispensed with simplicitor, as such. But the State has chosen to give him an opportunity and on the basis of the report the said order which has been passed, does not suffer from any procedural illegality or irregularity which would warrant interference under Article 226 of the Constitution of India.

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Accordingly, finding no merit in the present writ petition, the
same is, hereby, dismissed in limine.

20.11.2017

Sailesh

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*