

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.9198 of 2016

Date of Decision: 10.03.2017

Ajay Sood

... Petitioner

Versus

The Presiding Officer, Central Govt.
Industrial Tribunal-cum-
Labour Court-I and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ashok Aggarwal, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

The services of the petitioner were terminated at the threshold of retirement. There was a disciplinary inquiry pending against him while in service. It led to charge-sheet and conduct of a regular departmental proceeding an inquiry, submission of an inquiry report in which the charges were proven and then proceeding before the disciplinary authority who heard the petitioner and imposed the punishment of dismissal from service or committing grave misconduct.

Aggrieved by the dismissal, the petitioner raised an industrial dispute by serving a demand notice on the respondent-State Bank of India. On receipt of reference, the Labour Court proceeded to determine the dispute and called for the inquiry file. The matter lingered on for several

dates and one fine day, the petitioner says, he received an order framing issues.

It is Mr. Aggarwal's contention that there was failure in the Labour Court in not deciding the fairness of the inquiry as a preliminary issue but the learned counsel concedes that the petitioner filed his affidavit by way of examination-in-chief before the Labour Court to start the recording of his evidence and by this act and conduct waived his rights to object and call in question to his prejudice failure to strike preliminary issue as to whether the inquiry proceeding was fair and proper. However, the labour court has framed the issue to this effect.

I do not see what prejudice has been caused to the petitioner by the Labour Court in framing the the issue with the other issues and not deciding the same as a preliminary issue as to the propriety of the inquiry. The petitioner allowed the issues to be framed with the others and started his evidence giving up such right. Still if he felt sufficiently aggrieved he could have moved the High Court for relief.

If the petitioner did not press the issue to be tried first among the rest as a preliminary issue he did wisely since the challenge would ordinarily have failed in view of the law stated in D.P. Maheshwari v. Delhi Administration and others, (1983) 4 SCC 293 : AIR 1984 SC 153 that there should be no piecemeal adjudication of labour disputes before the industrial adjudicator only to protract litigation. On merits nothing was pressed before me. I have therefore not entered determination on facts as to the validity of the order of dismissal sustained by the labour court as not worthy of interference even under Section 11A of the ID Act, 1947.

For these reasons, the petition stands dismissed.

(RAJIV NARAIN RAINA)
JUDGE

10.03.2017
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Whether speaking/reasoned *Yes*

Whether reportable *No*