

LPA no. 1640 of 2015 (O&M) 1

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

**LPA no. 1640 of 2015 (O&M)
Date of Decision : 18.01.2017**

Satnam Singh

....Appellant(s)

Versus

Pepsu Road Transport Corporation, Patiala and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE DR. SHEKHER DHAWAN**

Present : Mr.Vikas Chatrath, Advocate for the appellant

Mr. Anupam Singla, Advocate for respondents no.1 and 2

MAHESH GROVER, J.(ORAL)

This appeal is directed against the judgment of the learned Single Judge dated 21.11.2014.

Noticing the facts it transpires that the appellant who was a workman faced termination of his services w.e.f 19.7.2004 on account of his absence from duty. He questioned the termination by raising an industrial dispute in the year 2008 and stated that the order dated 4.1.2006 terminating his services w.e.f 19.7.2004 is completely arbitrary and contrary to the provisions of law. He pleaded that he was away to Canada in connection with the ailment of his mother which prevented him to return to join his duties. The respondent-management took up the plea of unauthorized absence of the appellant from duty which was admitted and further pleaded

that prior to the termination a proper inquiry was conducted establishing the mis-conduct of the appellant and thus no fault could be found with the issue of termination. The Labour Court agreed with the fact that the inquiry was fair and proper and also noticed the unauthorized absence from duty of the appellant-workman but resorted to provisions of Section 11-A of the Industrial Disputes Act to convert the punishment of termination of services into compulsory retirement which then became a cause of grievance to the respondent – Corporation which preferred a civil writ petition bearing no. 16110 of 2012 which was decided on 21.11.2014 accepting the writ petition to over-turn the conclusion of compulsory retirement in favour of the appellant to maintain the order of disciplinary authority i.e termination of services. The present appeal has been filed against the said order dated 21.11.2014.

Before us learned counsel for the appellant has contended that award of the Tribunal was justified and Section 11-A of the Industrial Disputes Act would empower the Tribunal to do so. It is contended that the order of the disciplinary authority was wrong as the competent authority had not examined the previous record and length of service of the workman before passing the order of termination.

We have heard learned counsel for the parties and are of the opinion that the judgment of the learned Single Judge does not warrant any interference. The plea of the appellant that previous record and his length of service were not considered before passing of the order is incorrect. We have summoned the records and have seen that the entire service record of the appellant was considered and merely because it does not find reflection

sufficient application of mind in the process preceding the passing of the order. The record of the appellant shows that he had been repeatedly defaulting by remaining absent from duty and was appropriately punished for it.

An employer would be within his rights to look into the entire record of the workman and if it reveals a conduct eroding the confidence of the employer in the employee then subsequent mis-conduct for which he is charged coupled with this aspect would be sufficient to justify a drastic punishment.

We also notice from the fact that undisputably the appellant had proceeded abroad, evidently in search of greener pastures and even though he took up the plea that his mother was unwell and accepting it so, but the facts belie it, because she expired in the year 2005 and the order of termination was passed in 2006 well after her death and the industrial dispute raised in the year 2008. It is pertinent to mention here that since 2004 the appellant made no attempt to approach employer for redemption even though the extinguishment of the relationship of employer and employee resulted in the year 2006.

Therefore, the plea that he had gone to attend to his ailing mother would cut no ice.

This leads us to examine the issue of Section 11-A of the Industrial Disputes Act and we notice from the impugned judgment that no legal infirmity has been committed by the learned Single Judge in recording a finding that the Labour Court was not justified in awarding a lesser punishment in terms of Section 11-A as this was a cause befitting the maximum punishment of termination of service.

Accepting the order of the Labour Court would amount to rewarding a person who has gone abroad for greener pastures and then be admitted to service benefits such as pension etc. at the cost of public money.

Finding no legal infirmity in the impugned judgment, we hereby dismiss the present appeal.

(Mahesh Grover)
Judge

18.01.2017
rekha

(Shekher Dhawan)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No