

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

CWP No. 13881 of 2013

Date of Decision: 12.11.2018

The Patiala Cooperative Sugar Mills Limited, Rakhra, Patiala
...Petitioner

Vs.

The Id. Presiding Officer, Industrial Tribunal, Patiala and another
...Respondents

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

Present: Mr. Rahul Sharma, Advocate,
for the petitioner.

Mr. M.K. Dogra, Advocate
for respondent No.2.

RAJIV NARAIN RAINA, J. (Oral)

1. Having heard learned counsel for the parties and perused the record presented in the petition and the noticed the fact that the attendance of the respondent spread over a period of 10 years was only 44.71% in the seasonal industry, I do not think that this is a fit case to interfere with an award which grants compensation of Rs. 40,000/- since reinstatement is not feasible because the petitioner Mills are in liquidation.

2. Learned counsel for respondent No.2 has drawn my attention to the fact that much of the period of absence was regularized by grant of sanctions by the authority in the petitioning sugar mill. The Labour Court held the ex-parte enquiry to be fair and proper but has interfered invoking the powers under Section 11-A of the Industrial

Disputes Act, 1947. It is also the version of the Management that the respondent-workman was running a karyana shop in his residential premises at Tej Bag Colony, Patiala but the Management was unable to prove this fact.

3. Ironically, the workman was a Time Keeper appointed in the year 1985 and he failed to keep his time at work. The Labour Court has, for the reasons recorded in the award, thought that the order of termination dated 18.02.1988 was disproportionate to the charges and his termination was not fair. The respondent-workman has not challenged the present award dated 22.01.2013 and has thus accepted it. Also having regard to the fact that judicial discretion has been exercised by the Presiding Officer, Industrial Tribunal, Patiala and such exercise of discretion is not wide off the mark and is based on plausible reason, this Court would not substitute opinion from one to another on the same material, as if it were sitting in appeal.

4. For what has been said before, I find no cogent ground or error apparent on face of record warranting interference in the impugned award in exercise of jurisdiction under Articles 226 or 227 of the Constitution and would dismiss the petition.

(RAJIV NARAIN RAINA)
JUDGE

12.11.2018

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Whether speaking/reasoned : *Yes*
Whether reportable : *No*