

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11390-2014(O&M)

DATE OF DECISION: February 27, 2018

Punjab State Power Corporation Limited

....Petitioner

Versus

Presiding Officer, Industrial Tribunal, Patiala and another

.....Respondents

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

Present: Mr.J.S.Gurna, Advocate for the petitioner.
Mr.B.R.Rana, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (Oral)

In the instant petition, the petitioner has challenged the award passed by the Labour Court dated 4.12.2013 (Annexure P.5).

(2) The respondent is stated to have been appointed as Chowkidar on 1.1.1983 and his services were regularised on 3.4.2000. While working as such the petitioner noticed that respondent has produced a false date of birth certificate showing that his date of birth is 11.12.1964. On the other hand, they had necessary information that his actual date of birth is 6.2.1971. In this regard, the petitioner had investigated the matter through Vigilance Inspector who prepared a report after taking a statement of Headmaster of the Govt. Primary School, Ber Khurd, Ludhiana to the extent that the respondent has joined the school on 12.5.1976 and his date of birth is 6.2.1971. Based on the report of the Vigilance Inspector, the petitioner has terminated

the services of the respondent herein. The respondent raised an industrial dispute and it was decided in his favour on 4.12.2013. Hence, the present petition.

(3) Learned counsel for the petitioner vehemently contended that the Vigilance Inspector has collected relevant material to enable the department to reach the conclusion that date of birth of the respondent is 6.2.1971 and not 11.12.1964, thus, the respondent has misled the petitioner-corporation. It was also submitted that the respondent had ample opportunity to defend his stand that date of birth is 11.12.1964, such opportunity has not been availed by him. Consequently, the Labour Court has erred in passing the award in favour of the respondent.

(4) To the contrary, learned counsel for the respondent submitted that the Vigilance Inspector had collected the material evidence behind the back of the petitioner through Headmaster of the Govt. Primary School, Ber Khurd, Ludhiana to the extent that date of birth of the respondent is 6.2.1971 and not 11.12.1964. In the absence of Headmaster being witness in support of the statement made by him before the Vigilance Inspector, the evidence collected by Vigilance Inspector would be secondary. Otherwise, the statement-Headmaster is relevant for the purpose of deciding whether the respondent has joined the school on 12.5.1976 with the date of birth as 11.12.1964 or not, therefore, in the absence of evidence of the Headmaster, the

petitioner's action is illegal and arbitrary. Thus, there is no infirmity in the award passed by the Labour Court.

(5) Heard the learned counsel for the parties.

(6) The crux of the present petition is whether the respondent's date of birth is 11.12.1964 or 6.2.1971. The petitioner had collected the evidence and material behind the back of the respondent through Vigilance Inspector from Headmaster of the Govt. Primary School, Ber Khurd, Ludhiana to the extent that date of birth of the respondent is 6.2.1971 and not 11.12.1964 as contended by the respondent.

(7) It is crystal clear that the respondent being permanent employee is entitled to have opportunity to produce the evidence. Whereas, the petitioner had collected the evidence behind the back of the respondent. Otherwise, Headmaster of the Govt. Primary School, Ber Khurd, Ludhiana has not been cited as witness in the inquiry so also he has not been examined and cross-examined so as to appreciate his statement that date of birth of the respondent is 6.2.1971.

(8) In view of these factual aspects, no interference is called for in respect of the award dated 4.12.2013.

(9) Accordingly, the petition stands dismissed. Reserving liberty to the petitioner to hold a fresh inquiry, if it is warranted under the relevant rules/regulations.

February 27,2018
kd

(P.B. BAJANTHRI)
JUDGE

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