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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-23485-2014
Date of Decision : August 30, 2018

Gurjant Singh

.... Petitioner.

Versus

Industrial Tribunal, Patiala
and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Vikas Singh, Advocate, and
Ms. Sukhmani Patwalia, Advocate,
for the petitioner.

Mr. Anil Kumar Sharma, Advocate
for respondents No. 2 and 3.

SHEKHER DHAWAN, J.

Present writ petition under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari to quash the impugned award dated 02.08.2012 (Annexure P/5) passed by learned Industrial Tribunal, Patiala (for short, “**the Tribunal**”), whereby the reference has been answered against the workman.

2. As per the petitioner, he joined the respondent-Pepsu Road Transport Corporation (hereinafter referred to as the “**respondent-Management**”) as a Driver on 1.9.1977. He was served with a charge sheet on 27.9.1999 containing 10 allegations. The petitioner filed reply to

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the same and the Enquiry Officer was appointed. Subsequently, the Enquiry Officer submitted his report wherein the petitioner had admitted his guilt by appearing before the Enquiry Officer on 26.4.2000 and the charges were proved. On the basis of enquiry report (Annexure P/1), the Punishing Authority passed an order dated 22.6.2000 dismissing the petitioner from service. The appeal preferred by the petitioner against the said order was also dismissed by the Appellate Authority. The petitioner raised an industrial dispute and reference was made to the Tribunal.

3. Learned Tribunal, vide award dated 2.8.2012 (Annexure P/5) answered the reference against the petitioner-workman and as such, the present writ petition before this Court.

4. The stand of the Management is that the petitioner was issued charge sheet and on denial in the written reply, an Enquiry Officer was appointed, who conducted the enquiry proceedings. During the said enquiry, the petitioner admitted his guilt and the Enquiry Officer submitted his report, Annexure P/1. Thereafter, the disciplinary proceedings were completed and only then the Punishing Authority passed the order of dismissal even after issuing show cause notice to him. The Appellate Authority decided the appeal after hearing the petitioner.

5. At the time of arguments, learned counsel for the petitioner-workman contended that the disciplinary proceedings initiated and completed against the workman were just a formality as the petitioner was pressurized and under the undue influence, his confessional statement was got recorded before the Enquiry Officer. Moreover, no proper

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procedure was adopted in the enquiry as admitted by the only witness examined by from the Management side. Contention was also raised that other workmen were awarded lesser punishment, but the petitioner has been awarded the punishment of dismissal from service. So, the present writ petition be accepted and the petitioner be reinstated. The impugned award be set-aside.

6. While arguing on these points, learned counsel representing the respondent-Management contended that for the acts of indiscipline and irregularities, the petitioner was dismissed from service after adopting due procedure including issuance of charge sheet, appointment of Enquiry Officer. Thereafter, the Punishing Authority passed the order of punishment after giving the petitioner opportunity of hearing. Even the Appellate Authority decided the appeal against the petitioner. Learned Tribunal has also applied its judicious mind and answered the reference against the workman. So, the present writ petition is without any merit and the same be dismissed.

7. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that the services of the petitioner were terminated after following due procedure and complete disciplinary proceedings including issuance of charge sheet, consideration of reply thereof, enquiry proceedings before the Enquiry Officer. Before the Enquiry Officer, the petitioner had admitted all the charges levelled against him and on that basis order of punishment was passed. Now, the petitioner has simply taken the plea that admission

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was not made by him voluntarily, rather it was under pressure and due to undue influence. However, this fact was not disclosed by him at any stage to either to the Punishing Authority or to any superior officer that he was being pressurized by the Enquiry Officer. Otherwise also, learned Tribunal on the basis of record available with the Court, recorded the finding that the enquiry proceedings were adjourned to 26.04.2000 for recording the evidence of the Management and on that date, the workman came present and admitted all the charges levelled against him and he also made statement that he did not intend to continue with the enquiry proceedings and the enquiry proceedings be closed. The zimni orders dated 9.3.2000 and 26.4.2000 also bear the signatures of the workman. Such an admission before the Enquiry Officer is part of the disciplinary proceedings and if the workman himself chooses not to continue with the enquiry proceedings, thereby making his confessional statement, the Enquiry Officer was fully justified to submit his report accordingly.

8. As regard to the plea taken by learned counsel for the petitioner that due procedure was not adopted, the same is contrary to the record because proper procedure has been adopted in this case.

7. The scope of interference in such like disciplinary matters by the Courts is to a limited extent especially when the domestic enquiry has been conducted and due opportunity has been given to the delinquent official. Certainly, the Court can look into the points whether the enquiry was conducted in fair manner and principles of natural justice were followed, but in the given set of facts, the petitioner had himself made a

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confessional statement that he did not want to continue with the enquiry proceedings and admitted his guilt. Courts are not supposed to perform the duties of appellate authority to scan the evidence, but the role of the Courts is limited to the extent that the Court is to see whether domestic enquiry was conducted in a fair manner and due opportunity was given to the delinquent official. Such a view was taken by Hon`ble Supreme Court in **Union of India and others V. P. Gunasekaran, 2015(2) SCC 610**, where the Hon`ble Apex Court observed as under:-

“13. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on Charge No. I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers Under Article 226/227 of the Constitution of India, shall not venture into re-appreciation of the evidence. The High Court can only see whether :-

- a. the enquiry is held by a competent authority;
- b. the enquiry is held according to the procedure prescribed in that behalf;
- c. there is violation of the principles of natural justice in conducting the proceedings;
- d. the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;
- e. the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

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- f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;
- g. the disciplinary authority had erroneously failed to admit the admissible and material evidence;
- h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;
- i. the finding of fact is based on no evidence.

Under Article 226/227 of the Constitution of India, the High Court shall not:

- (i). re-appreciate the evidence;
- (ii). interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;
- (iii). go into the adequacy of the evidence;
- (iv). go into the reliability of the evidence;
- (v). interfere, if there be some legal evidence on which findings can be based.
- (vi). correct the error of fact however grave it may appear to be;
- (vii). go into the proportionality of punishment unless it shocks its conscience.”

9. In **Chairman & MD V.S.P. & Ors. Vs. Goparaju Sri Prabhakara Hari Babu, 2008(2) SCT 426**, Hon`ble Apex Court held that in such like matters, where the procedural requirements are complied with, the Courts would not ordinarily interfere with the quantum of punishment imposed upon a delinquent employee.

10. In view of the above, no interference is called for in the

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impugned award dated 2.8.2012 (Annexure P/5) passed by learned Tribunal and the present writ petition filed by the petitioner-workman is without any merit and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

August 30, 2018.
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes