

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16559 of 2018

Date of Decision: 23.10.2018

Gurdial Singh

... Petitioner

Versus

Industrial Tribunal Ludhiana
and another

... Respondents

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

Present: Mr. Parminder Singh-I, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

1. The challenge in this petition is to the award dated May 13, 2016 passed by the Presiding Officer, Industrial Tribunal, Ludhiana in Reference No.409 of 2009.

2. Mr. Parminder Singh, learned counsel appearing for the Ex-conductor, Punjab Roadways, Jagraon has not been able to persuade me to interfere in the award by reason of inordinate delay and unexplained laches on the part of the petitioner in calling in question the termination order dated September 29, 1995 by raising a dispute and serving a demand notice on November 06, 2006 after a lapse of more than 11 years. It is pleaded in the petition but not in the demand notice or in the statement of claim filed before the Labour Court that numerous representations were made to the authorities and an appeal was also filed against the termination order. Further representations had to be made to get the appeal decided and it is said that appeal has still not been decided. However, no evidence to support this has been placed before the Labour Court and it is obviously a new plea

taken at this stage with the trial over and evidence adduced by the parties on which the award is based. The petitioner was charge-sheeted on October 17, 1994 for absence from duty w.e.f. September 21, 1993. He did not file any reply. Inquiry was held against him but he did not join the inquiry. He was held guilty of the misconduct by the Inquiry Officer. Then show cause notice was served upon him on August 24, 1995 along with copy of inquiry report but he did not file reply. Thereafter, the termination order was passed.

3. The only argument advanced for setting aside the termination order is that it was not passed by the competent authority and the labour court has erred on this point even when the order was passed by the officiating General Manager and not the General Manager. This argument did not impress the Labour Court who upon reading Exs.M/2 and M/3 held that posting of Lal Singh, Inquiry Officer as Officiating General Manager, did not debar him for taking disciplinary action against the erring employee. He read the office order Ex.M/5 dated May 07, 1993 (placed as Annexure P-2 in the present case) passed by the Joint Director, Administration, in the office of Director, State Transport, Punjab addressed to all the Divisional Managers and General Managers of Punjab Roadways deciding that in the case of one Surjit Singh, Ex-conductor the termination order was passed by Gurcharan Singh who worked as Officiating General Manager, Punjab Roadways, Amritsar-1, which was set aside by the Civil Court on the ground that order was not passed by the competent General Manager or the full-fledged General Manager.

4. Officiating charge of the post and the extent of authority to act as the punishing authority would depend on the power conferred on the

officiating General Manager by order of punishing authority authorizing him to discharge the duties of a General Manager. Officiating charge is only a little short of holding the post on substantive basis. For this, the Labour Court read Ex.M/2 copy of order dated October 22, 1993 of the Secretary, Government of Punjab, Transport Department, whereby Lal Singh, Inquiry Officer was appointed as General Manager, Punjab Roadways, Amritsar-II and in addition the officiating charge of General Manager, Nawanshahr where the order was passed and conveyed. The words used in the order of officiation read in the vernacular are “*Prabandgi*” and “*Viti*” which means powers conferred were both administrative and financial. If administrative powers were conferred then I see no reason why Lal Singh was not competent to pass the termination order as an Officiating General Manager of the Punjab Roadways, Nawanshahr.

5. That apart, the termination order, whatever its character may be, it was too late in the day to lay challenge to it after more than 11 years. Delay is one of the reasons recorded by the labour court in declining the reference.

6. Accordingly, I find no infirmity in the award of the Labour Court declining the reference or an error apparent on the face of record and would dismiss the petition.

(RAJIV NARAIN RAINA)
JUDGE

23.10.2018
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Whether speaking/reasoned Yes

Whether reportable No