

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

**CWP No.18635 of 2018.
Date of Decision: 30.07.2018**

**Secretary, Department of Transport, Union Territory, Chandigarh
and another**

....Petitioners.

Versus

**Presiding Officer, Labour Court, Union Territory, Chandigarh and
another**

...Respondents.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Parminder Singh Kanwar, Advocate for the petitioners.

SHEKHER DHAWAN, J.

Present writ petition under Article 226/227 of the Constitution of India is challenge to the award dated 29.11.2017 (Annexure-P1), whereby the reference made to the Presiding Officer, Industrial Tribunal and Labour Court, Union Territory, Chandigarh (hereinafter referred to as 'the Tribunal') was decided in favour of the workman.

2. Facts relevant for the decision of present controversy; that in this case, demand notice was served by President/General Secretary of Chandigarh Government Transport Worker's Union, in respect of Harbans Singh, Conductor (respondent No.2 herein) and there were allegations against him that on 14.06.1997, the bus was checked and 15 passengers were found to be travelling without ticket who had boarded the bus from

Ambala Cantt for Moheri. On further checking, twenty two more passengers were also found travelling without ticket and workman allegedly defrauded Rs.118/- from the government revenue. For these lapses and allegations, charge-sheet was issued and enquiry was conducted against the workman. The Enquiry Officer submitted report against the workman and after conclusion of disciplinary proceedings, the appointing authority passed order for stoppage of four annual increments vide order dated 20.12.1999 (Annexure-P4).

3. Statutory appeal was preferred, which was dismissed by the appellate authority on 29.08.2011 (Annexure-P5).

4. The management had come with the plea that the workman was given due opportunity to defend his case before the Enquiry Officer and the appointing authority had passed the order after hearing the workman. The appellate authority decided the appeal considering all the material facts and there are no grounds for setting aside the departmental proceedings.

5. At the time of arguments, learned counsel representing the petitioner-management contended that learned Industrial Tribunal had completely ignored the fact that due opportunity was given to the workman to defend his case. The enquiry proceedings were conducted and the appointing authority, while relying upon and agreeing with the findings of the Enquiry Officer, passed the order and there was no question of setting aside the said proceedings by learned Industrial Tribunal and, as such, the impugned award is liable to be set aside.

6. Having considered the submissions made by learned counsel for the petitioner-management and the fact that learned Industrial Tribunal

has rightly observed that the Enquiry Officer has not applied its judicious mind. While recording the enquiry report, he has not discussed the material and evidence on the basis of which he was submitting such a report and the learned punishing authority placed reliance upon such a report, which is practically without any reason. Learned Industrial Tribunal rightly placed reliance upon the judgment of Hon'ble Supreme Court in case **Anil Kumar and others versus Presiding Officer and others, 1986 LLJ 101**, wherein Hon'ble Supreme Court had taken the view that if the Enquiry Officer did not apply his mind to the evidence and simply record the findings that the charges are proved, such a report is not to be considered and made basis for passing punishment order.

7. There are no grounds to interfere by invoking writ jurisdiction to set aside the award dated 29.11.2017 and the writ petition is dismissed being without any merit.

(SHEKHER DHAWAN)
JUDGE

30.07. 2018.
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Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No