

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

LPA No.1491 of 2018(O&M)

Date of decision: 01.10.2018

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

... Appellants

Versus

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

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

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

This is an intra-court appeal under Clause X of the Letters Patent against the order and judgment dated 30.07.2018, vide which the writ petition preferred by the appellant-Management against the award dated 29.11.2017, passed by the Labour Court whereby the punishment inflicted upon the respondent-workman was set aside, had since been dismissed.

The facts that are required to be noticed are limited.

The respondent-workman was employed with the appellant i.e. Chandigarh Transport Undertaking, as a Conductor. He was charge-sheeted vide memo No.637 dated 26.08.1996, for while being on duty with bus No.CH01-G-5080, 15 passengers, who were travelling from Ambala Cantt. to Mohri, were found without tickets by the checking Staff. Likewise, 22 more passengers were found travelling without tickets. Thus, the workman was alleged to have defrauded the Corporation of sum of Rs.118/-. He filed reply to the charge-sheet and disputed the allegations levelled against him upon which a domestic inquiry was initiated. The Inquiry Officer submitted

his report (Annexure P2), vide which the charges levelled against the workman were found to have been proved. Thus, the disciplinary authority, vide order dated 20.12.1999, ordered stoppage of his 4 annual increments with cumulative effect. And, as regards the period of suspension w.e.f. 17.06.1996 to 30.09.1996, he was only held entitled to the subsistence allowance. The statutory appeal preferred by the workman against the order of punishment was also dismissed on 29.08.2011. Whereafter, the workman raised an industrial dispute. On a consideration of the matter as also the evidence on record, the Labour Court reached a conclusion that even though the appellant had held inquiry against the workman and he was given due opportunity to participate therein, but a bare analysis of the inquiry report would reveal that Inquiry Officer had apparently failed to justify the conclusion he had reached. The inquiry report would show that there was hardly any analysis of the evidence led by the parties to reach any conclusion either way. Thus, in reference to the decision of the Supreme Court in Anil Kumar v. Presiding Officer and Ors., 1985(3) SCC 378, it concluded that the report submitted by the Inquiry Officer was wholly perverse. And as the order passed by the punishing Authority was predicated upon the said report that too was vitiated. Accordingly, the Labour Court, vide its award dated 29.11.2017, set aside the punishment imposed upon the workman. That is how, the appellant assailed the award dated 29.11.2017 vide writ petition referred to above. And even the learned Single Judge, on a consideration of the matter and evidence on record, concluded:

“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.”

Having heard learned counsel for the appellant and perused the record, we too are of the view that in the report furnished by the Inquiry Officer (Annexure P2), he barely referred to the alleged incident, the charges levelled against the workman, and a narration as to the proceedings in the inquiry. But, he indeed failed to analysis the evidence led by the parties so as to demonstrate that the conclusion reached or recorded by him was the natural and necessary consequence thereof:

“During the cross questions made by the P.O. To the delinquent official that the vehicle was checked near Phoji Dhaba and 60 passengers had boarded in the bus from the Ambala and 25 tickets were issued to the passengers. He also stated in his statement that he does not want to produce any defence witness and his enquiry may be closed.

The undersigned come to the conclusion that the charge leveled against Sh. Harbans Singh, conductor No.712 are proved.”

The Hon'ble Supreme Court in Anil Kumar's case (supra) had held that an inquiry report in a quasi-judicial inquiry must show the reasons for the conclusion arrived at. It cannot be ipse dixit of the Inquiry Officer and has to be a speaking order in the sense that the conclusion is supported by reasons. On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions arrived at by the Labour Court as also the learned Single Judge were either contrary to the record or suffered from any material illegality.

Thus, in the wake of the position, as sketched out above, we too are dissuaded to interfere with the impugned order as also the judgment rendered by the learned Single Judge. The appeal being devoid of merit is accordingly dismissed.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

01.10.2018
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
YES