

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

LPA No. 687 of 2018 (O&M)

Date of Decision: 20.08.2018

Home Secretary-cum-Secretary Transport, Chandigarh and another

.....Appellants

versus

Gurmeet Singh and another

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL, JUDGE**

Present : Mr. Sanjiv Ghai, Advocate, for the appellants.
Mr. G.S.Bal, Sr. Advocate with
Ms. Harmanpreet Kaur, Advocate, for respondent No.1.

KRISHNA MURARI, C.J.(oral)

This intra-court appeal under Clause X of the Letters Patent has been filed by the respondents in the writ petition challenging the judgment and order dated 03.08.2017 passed by the learned Single Judge allowing the writ petition filed by respondent No.1 herein and remanding the matter back to the disciplinary authority.

2. Facts in brief relevant for the purpose of dispute are as under:-

Respondent No.1 was working as bus conductor under the appellant and while he was on duty on 29.08.2000 from Chandigarh to Abohar, the bus was subjected to inspection in which 27 passengers were found travelling without ticket from Muktsar to Rupana and Abohar. A disciplinary proceeding was initiated which resulted in an order of termination dated 04.12.2001. Appeal was preferred which was also dismissed and thereafter an industrial dispute was raised before the Labour

Court. Vide award dated 10.01.2012 the Labour Court declined the reference

and answered the same against the respondent-workman. The same was put to challenge by filing a writ petition.

3. One of the principal grounds of challenge was that the disciplinary authority passed the impugned order of termination without considering the reply submitted by the workman to the show cause notice issued alongwith Enquiry Officer's report. Learned Single Judge after considering the impugned order of termination found that various issues raised by the workman in his reply to the show cause notice have not at all been adverted to by the disciplinary authority and the impugned order has been passed without making a reference to the same. Learned Single Judge after setting aside the order of termination and consequential orders passed by the Appellate Authority and Labour Court, remanded the matter back to the Disciplinary Authority to pass a fresh order after considering the reply submitted by the workman to the show cause notice on the Enquiry Officer's report. The period in between was directed to be treated under suspension keeping in view the decision of the Apex Court in case of ***MD ECIL v. Karunakar (1993) 4 SCC 727*** and to pay the subsistence allowance. While coming to the aforesaid conclusion, learned Single Judge has reproduced the termination order passed by the disciplinary authority.

4. We have also gone through the same and find that the issues raised by the respondent-workman in the reply to the show cause notice have not at all been considered by the disciplinary authority while passing the order of termination. What has been recorded in the order is that even during the personal hearing afforded to him he could not state anything contrary to the facts recorded by the Enquiry Officer. A perusal of the reply to the show cause notice submitted by the respondent-workman reveals that various pleas were raised such as no statement of any passenger was recorded, cash

was not checked and FIR was not lodged. None of these issues have been addressed by the disciplinary authority while passing the order of termination and thus we do not find any infirmity in the judgment of the learned Single Judge in remanding the matter back to the disciplinary authority to be considered afresh at that stage.

5. Appeal is thus devoid of merits and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

20.08.2018
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√