

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

CWP-19490-2015

Date of Decision: 13.11.2019

Pardeep Aggarwal

... Petitioner

vs.

**The Presiding Officer, Central Govt. Industrial Tribunal and Ors
.. Respondents**

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Dinesh Ghai, Advocate
for the petitioner.

Mr. Kapil Kakkar, Advocate
for the respondents.

ARUN MONGA, J.(ORAL)

Inter alia issuance of a writ in the nature of *certiorari* has been sought for quashing of interim order dated 14.05.2015 (Annexure P-10) passed by the Labour Court and also order dated 24.04.2012 (Annexure P-6) vide which petitioner was dismissed from service and order dated 28.06.2012 (Annexure P-7) passed by the Appellate Authority upholding the order dated 24.04.2012 (Annexure P-6) passed by the Competent Authority.

2. On a query posed by the Court, learned counsels are *ad idem* that the case is still pending before the Labour Court for final adjudication and, therefore, this Court, at this stage, need not go into the veracity of order dated 24.04.2012 vide which the petitioner was dismissed as well as the Appellate order dated 28.06.2012 which are subject matter of adjudication before the Labour Court.

3. In the premise, the writ petition is confined to the legality of

order dated 14.05.2015 (Annexure P-10) passed by the Labour Court.

4. In this context, when the matter came up for hearing for the first time on 15.09.2015 at the time of issuance of notice of motion, my learned brother Rajiv Narain Raina, J. passed following order:-

“Though the writ petition has been filed against an interlocutory order where the Labour Court has formed an opinion that the enquiry conducted against the petitioner does not suffer from any infirmity and is fair and proper but what persuades this Court to interfere against the interlocutory order in this case is that the Presiding Officer, Labour Court, Chandigarh has posted the matter for evidence of the parties on the point of perversity and quantum of punishment.

Mr.Ghai submits that the question of “perversity” and “quantum of punishment” are in appropriate when used in connection with leading evidence. It would be very difficult for anyone to produce evidence “on perversity” or on “quantum of punishment” but evidence can be led to prove facts which point to perversity and quantum of punishment. If the Labour Court has expressed a view, which appears more than just prima facie, then interference at this stage as prayed for by Mr.Ghai may be called for to avert a miscarriage of justice in the future. For this, the respondent Bank is required to be heard on proposition at the end of 3rd last para of the order dated 14.5.2015 where it is recorded, “As the enquiry was held fair and proper, therefore, the parties are at liberty to produce any evidence on the point of perversity and on quantum of punishment.” The Court should have expressed only prima facie opinion on the inquiry proceedings and granted reasonable opportunity for the petitioner to exercise his options

available under Section 11A of the I.D. Act.”

5. In the above said background, return has been filed by the respondent-Bank wherein it was expected of them to deal with the observations made by this Court, though the same were *prima facie*, but yet there is not even a whisper or, otherwise, a murmur in the passing with regard to veracity of the order passed by the Labour Court under challenge before this Court. Ordinarily on this ground alone, in view of the observations made in order dated 15.09.2015, *ibid*, the writ petition ought to be allowed. However, having heard the rival contentions of learned counsels, my final opinion is in complete confirmity with the *prima facie* view expressed by my brother Judge while issuing notice of motion. The impugned order passed by the Labour Court does not stand scrutiny of law.

6. Per contra, learned counsel appearing for respondents-Bank submits that in view of acceptance of findings of the Inquiry report, Labour Court has rightly concluded that as the departmental inquiry was conducted in fair and proper manner. The parties, therefore, are/were to adduce evidence only on the point of perversity and quantum of punishment. Necessary corollary thereof is that the Labour Court has already accepted the inquiry report and held the employee delinquent. It is only the quantum of punishment and perversity thereof which require adducing of evidence.

7. The vapidty of the aforesaid argument is self reflective from the interim order passed by the Labour Court, whereby while making such a final conclusion, that too, by an interim order, the case has been posted for further proceedings for adducing of evidence only on quantum of punishment. Petitioner is already pronounced guilty. I am unable to persuade myself with the insipidness of the argument of the learned counsel

for the respondents-Bank that evidence is required to be adduced even after a conclusion has been arrived at by the Labour Court. What would be the necessity of such an evidence if the conclusion has already been rendered? Clearly, having once rendered a conclusion that the employee is delinquent, no evidence, howsoever cogent, is of any consequence qua innocence of petitioner, as the same would only be confined to quantum of punishment.

8. I am unable to comprehend as to how without any evidence the Labour Court could have given a finding and/or arrived at a conclusion that the petitioner is delinquent. At the most, it was open to the Labour Court to make *prima facie* observations in the nature of obiter dicta and not render a finding without granting fair opportunity to the parties to adduce their respective evidence on the merits of the case. In fact, the merits of the case seem to be a foregone conclusion in view of the impugned interim order as the only question that survives adjudication and requires adducing of evidence is the quantum of punishment.

9. In the premise, impugned order dated 14.05.2015 (Annexure P-10) is not sustainable and is, accordingly, modified to the extent that any observation and/or conclusion/finding made therein shall only be *prima facie* and not binding and shall be subject to the evidence to be adduced by the parties. In fact, I am of the view that the following observations made by the Labour Court need to be expunged from the impugned order and it is, accordingly, directed and to that extent the Labour Court order is quashed.

“The workman failed to point out any infirmity in the enquiry proceedings. Therefore it is held that the enquiry was conducted fairly, properly and accordance to the principles of the natural justice.

As the enquiry was held fair and proper, therefore, the parties are at liberty to produce any evidence on the

point of perversity and on quantum of punishment. ”

10. In the aforesaid premise, writ petition is partly allowed and Labour Court is directed to proceed with the case on merits. Since the matter has been pending for long before this Court and resultantly got inordinately delayed before the Labour Court, it is expected that the Labour Court shall conclude the trial as expeditiously as possible preferably within a period of one year.

13.11.2019

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(ARUN MONGA)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No