

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8684 of 2011

Date of Decision: 25.03.2019

Vinay Kumar

... Petitioner

Versus

Presiding Officer, Industrial Tribunal-
Cum-Labour Court-1, Gurgaon and another

... Respondents

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

Present: Mr. Barjinder Singh, Advocate,
for Mr. Rakesh Gupta, Advocate,
for the petitioner.

None for respondent No.2.

RAJIV NARAIN RAINA, J.

1. This is a case of dismissal coming from the Labour Court at Gurgaon. The workman has challenged the order dated August 31, 2009.

2. Brief facts are that the petitioner was a Diesel Mechanic in the respondent-Company appointed in March 1996. He was in his second year of service when his services were placed under suspension on the basis of a complaint. The validity of the inquiry conducted against the petitioner constituted a preliminary issue which was decided against him by an order dated August 31, 2009. The Labour Court held that the management had conducted a fair and proper domestic inquiry. The findings recorded in this regard became final and have not been challenged by the petitioner in any legal forum.

3. In the final award, the sole question which taken up for consideration was whether the termination of service of the workman by the

management on the basis of the domestic inquiry is justified or not. The point of consideration was whether the provisions of Section 11-A of the Act were attracted and what is the scope of interference by the Tribunal to orders passed by the management dispensing with the services of the workman by way of punishment. In this regard, the Labour Court examined the issue in the light of the judgments of the Supreme Court in Usha Breco Mazdoor Sangh v. Management of Usha Breco Limited and another, 2008 (II), Supreme Court Cases (L&S)-298, West Bokaro Colliery (TISCO Ltd.) v. Ram Pravesh Singh, 2009 (1) SC, LLJ-220 and Divisional Manager, Rajasthan State Road Transport Corporation v. Kamruddin, 2009 LLR-945.

4. The charge against the workman and the imputation of misconduct in the charge-sheet docket Ex.M3 was that the petitioner has caused damage to the property of the management as well as financial loss and also for creating an atmosphere which was not conducive to work by threatening other staff to desist from work. The petitioner did not file reply to the charge-sheet and that is how the domestic inquiry was started and held by appointing an Inquiry Officer. The petitioner failed to participate in the inquiry proceedings though on some dates he did appear but then he failed to lead any evidence taking the plea of illness. The Labour Court in the final award dated March 08, 2010 held that since the charges against the workman stand proved there is no justification of re-visiting the punishment imposed upon him by the management. The case calls for no interference. Accordingly, the reference has been answered against the petitioner. The Tribunal has observed that there is nothing on record to show that penalty of removal from service is so excessive that it would amount to victimization.

5. I have no reason to disagree with the conclusions arrived at by the Inquiry Officer or the labour Court on the materials available on record. The acquittal in the criminal case of 2005 on the same set of allegations as in the domestic charge sheet will not distract for the findings of guilt in the report of the domestic inquiry and a mere acquittal on the same set of allegations would also not conclusively lead to upsetting the domestic inquiry and the findings recorded therein. I find no error in the award sufficient to efface it.

6. Dismissed.

(RAJIV NARAIN RAINA)
JUDGE

25.03.2019
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Whether speaking/reasoned Yes

Whether reportable Yes/No