

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

212

CWP No.14502 of 2014 (O&M)
DECIDED ON : 06.02.2020

Chandigarh Transport Undertaking

...Petitioner

versus

Presiding Officer and another

...Respondents

CORAM : HON'BLE MR. JUSTICE GIRISH AGNIHOTRI

Present : Mr. J.S. Toor, Advocate
for the petitioner.

Mr. Amit Kaith, Advocate
for respondent No.2.

GIRISH AGNIHOTRI, J. (ORAL)

Present petition has been filed by the petitioner-Chandigarh Transport Undertaking, Chandigarh, *inter alia*, praying for quashing of the award dated 14.06.2011 (Annexure P-7) vide which the Labour Court had decided the reference in favour of the workman.

With the able assistance of the counsel for the parties, this Court has gone through the award.

The pleaded case of the workman before the Labour Court was that the workers Union had raised a demand notice in respect of Sh. Saroop Singh, Conductor. The brief facts as pleaded before the Labour Court and as noticed in the award are that on 14.07.1990, when the workman was on duty, the bus was checked by S/Sh. Jagir Singh and Jagdish Lal Arora, Inspectors. A charge sheet was issued to him on 30.07.1990.

It was the case of the workman that the inquiry was not conducted in the fair manner. It was the case of the workman that the Divisional Manager was competent to impose the punishment being

appointing and punishing authority of Class-III employees. Thereafter on 15.11.1991, an order was passed whereby three increments of the workman had been stopped. This order was passed by the General Manager, who was not competent to pass the punishment order as alleged by the workman.

Learned counsel for the petitioner submits that the stand of the Management as pleaded and noticed in the award was that firstly the claim of the workman was badly time barred. He submits that the workman has challenged the punishment order after the lapse of 09 years. He further submits that the Inquiry Officer has conducted inquiry in a fair manner. It is the case of the Management that the General Manager was competent to issue show cause notice and also award of punishment.

To support his submissions, the learned counsel for the petitioner relies on documents appended with the writ petition as Annexures P-9 to P-11.

The Labour Court in para 16 of the award has observed that the General Manager, who has passed the impugned order dated 15.11.1991 was not empowered under the rules to do the same. It was further observed that the punishing authority of the workman was the Divisional Manager, Chandigarh Transport Undertaking, Chandigarh.

Accordingly, issue was decided in favour of the workman and in para 18 of the award dated 14.06.200 (Annexure P-7), the following directions were given:-

“18. In the light of findings on the Issue above, this reference is allowed and answered in favour of the workers union to the effect that impugned order dated 15 the November, 1991 passed by the General Manager against the workman Saroop Singh, Conductor No.238 is illegal, null and void and not binding on him. The management shall be at liberty to get de novo enquiry conducted against the workman as per

provisions of law and relevant rules governing the service conditions of the workman. The said inquiry, if any, shall be initiated not later than six months from the date of this award and shall be concluded within a reasonable time preferably within one year of passing of this award. Appropriate Government be informed. Copy of this award be also sent to Learned District and Session Judge, Chandigarh in view of sub-section 10 of section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

The 14th June, 2011

*Sd/-
Presiding Officer
Industrial Tribunal and
Labour Court, Union Territory,
Chandigarh.”*

Vide order dated 18.09.2014, notice of motion was issued. The order reads as under:-

“Civil Misc. No.11612 of 2014.

Prayer made in the present Civil Misc. Application for placing on record additional affidavit alongwith true copies of Annexures P/8 and P/11 is allowed. The same are taken on record.

Office to tag the same at appropriate place in the file.

The Civil Misc. Application is disposed of accordingly.

Civil Writ Petition No.14502 of 2014.

Submits that direction to get the denovo enquiry conducted against the workman was not justified since it has been found that the punishment order dated 15.11.1991 (Annexure P/4) was passed by the General Manager who was not competent. In such circumstances, there was no need to order fresh enquiry after such a long period.

Notice of motion for 23.4.2015.

In the meantime, operation of the direction issued shall remain in suspension.”

After hearing learned counsel for the parties, this Court is of the view that as directed by the Labour Court, let the inquiry be completed in a time bound frame so that all consequential benefits to which the workman is

entitled may be released forthwith.

This Court finds force in the submissions made by the counsel for the respondent that if de novo inquiry would have been conducted by the punishing authority the workman would have got his retiral benefits. The present writ petition is disposed of with the following directions:-

(i) The petitioner-Management is directed to complete the de novo enquiry within three months from the date of receipt of the certified copy of the order. Learned counsel for the respondent undertakes that the workman himself shall cooperate with the conclusion of the inquiry at the earliest. Two opportunities each be given to both the parties to conclude their evidence/arguments.

(ii) On completion of the inquiry, Management would release the consequential benefits as are admissible to the workman within two months from the date of decision by the punishing authority.

(GIRISH AGNIHOTRI)
JUDGE

February 06, 2020
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Whether speaking/reasoned : YES/NO
Whether reportable : YES/NO