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

CWP-18882-2017

Date of Decision: January 15, 2020

Dayanand

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.S.S.Sodhi, Advocate
for the petitioner.

.....

NIRMALJIT KAUR, J. (ORAL)

The present writ petition is filed against the Award dated 08.06.2011 vide which the reference dated 20.01.2004 against the order of termination passed way back on 28.01.1994 was declined.

The petitioner challenged the basic order of termination dated 28.01.1994 passed by respondent No.3 by way of an appeal, which was also dismissed vide order dated 27.02.1996 by respondent No.2. He filed another appeal before respondent No.1, which also stood dismissed on 21.03.2002. Thereafter, the reference received from the Secretary Labour, Chandigarh Administration was declined vide Award dated 08.06.2011 by the Presiding Officer, Industrial Tribunal and Labour Court, Union Territory, Chandigarh, and the order dated 28.01.1994 whereby services of the petitioner were terminated was held as valid and legal and punishment too was found proportionate to the charges levelled against the delinquent workman.

Heard.

The petitioner did not challenge the said order passed way back on 08.06.2011 till 18.08.2017, i.e. almost six years on the ground that the Award was never communicated.

Learned counsel for the petitioner while explaining the delay submitted that it is evident from para No.13 of the Award that the appropriate Government be informed of the Award but no such communication was sent to the petitioner and, therefore, he filed the present writ petition as soon as he came to know of the same. The said argument is hard to believe. A perusal of the Award shows that the representative of the workman was present and duly heard which show that the petitioner was aware of the proceedings before the Labour Court. Admittedly, the same was also published in the gazette.

Even on merits, nothing has been brought to the notice of this Court which may enable this Court to interfere in the Award. The petitioner intentionally remained absent from 22.04.1993 to 26.06.1993 from his duties.

The only argument raised by learned counsel for the petitioner is that his absence was duly condoned as he was once again given an opportunity to improve his performance which is evident from the order dated 28.01.1994 passed by the General Manager, Haryana Roadways, Chandigarh. Therefore, his services cannot be terminated.

The said argument has no bearing. The finding that the petitioner was absent from duty for almost two months is proved on record. The argument that his absence was condoned as he was given an opportunity to improve does not help as when he was given an opportunity to improve, his work and conduct continued to be unsatisfactory. Therefore, in all

circumstances, it only shows that the Department tried to be as fair and kind as possible but the petitioner did not mend his way. In any case, the absence from duty, which stood proved, cannot be ignored. The Roadways Department is an emergent service and hence remaining absent from duty cannot be accepted.

Accordingly, the writ petition is dismissed both on the ground of delay as well as on merits.

January 15, 2020
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(NIRMALJIT KAUR)
JUDGE

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|---------------------------------------|---------------|
| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |