

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.2480 of 2021

Date of decision:28.04.2021

Lakhwinder Singh

... Petitioner

Versus

Chairman-cum-Managing Director (CMD),

Punjab State Power Corporation Limited, Patiala & ors.

...Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Manu Loona, Advocate,
for the petitioner.

G.S. Sandhawalia, J. (Oral)

In the present writ petition filed under Articles 226/227 of the Constitution of India, challenge has been laid to the order dated 16.06.2020 (Annexure P-7), vide which the petitioner has been dismissed from service, by the respondent-Corporation.

A perusal of the paper book would go on to show that the petitioner was appointed as an unskilled worker on contractual basis with the Punjab Ex.Serviceman Corporation, Chandigarh w.e.f. 01.12.2016 (Annexure P-1). However, the principal employer has not been made a party in the present writ petition. As per the terms of the appointment letter, PESCO regulations were also not to be applicable to the petitioner completely.

The grouse of the petitioner, however, is that as per Clause 6 of the appointment letter, the services of the petitioner could be terminated without any notice due to various reasons, but none has been mentioned in the impugned order.

Counsel for the petitioner has submitted that dismissal is only on the basis of allegations of misconduct as such, in as much as an inquiry Annexure P-5 was held, in which it was observed that the petitioner was not coming present on duty from December 2016 to January 2020 but the Junior Engineer had shown him to be present on duty for that period. It is, thus, submitted that the order of termination is not justified. It is further contended that the petitioner has been replaced by some another employee as such and, therefore, challenge is made to the dismissal order on this ground as well.

The above facts would go on to show that the factual aspects have to be clarified and it would be a matter of evidence to the extent as to who is the principal employer and whether the respondent-Corporation was justified in passing the impugned order. In such circumstances, the petitioner has an alternative efficacious remedy to challenge the said termination order in terms of the provisions of the Industrial Disputes Act, 1947, by raising an industrial dispute, as replacement by another person has also been alleged.

The law regarding the issue of alternative efficacious remedy has been laid down by the Apex Court in the case of **United Bank of India Vs. Satyavati Tandon and others**, 2010(8) SCC 110 and it is the settled principle that the Court would not exercise its extraordinary writ jurisdiction where the disputed questions of facts, as such, are coming forth. All these aspects fall within the ambit of the jurisdiction of the Labour Court, as such.

Resultantly, the present writ petition is disposed of by relegating the petitioner to his alternate efficacious remedy of raising an industrial dispute in terms of the provisions of the Industrial Disputes Act, 1947.

April 28, 2021
vinod*

Whether speaking/reasoned:

Whether Reportable:

(G.S. SANDHAWALIA)
JUDGE

Yes/No

Yes/No