

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

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IN VIRTUAL COURT

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**CWP No. 13294 of 2020
Date of decision : 25.2.2021**

Didar Singh

.....Petitioner

Vs.

**Central Government Industrial Tribunal-cum-Labour Court-II,
Chandigarh and another**

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. G.S. Brar, Advocate, for the petitioner

Rajbir Sehrawat, J. (Oral)

This writ petition has been filed challenging the award dated 9.10.2019 (Annexure P-2), passed by the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh (in short "the Labour Court'), whereby the reference made to the Labour Court has been answered against the present petitioner.

The facts in brief are; that the petitioner claimed that he was appointed as Clerk-cum-Cashier with the respondent bank on 7.10.1991. The petitioner served with the bank upto 13.7.1994. But his services were illegally terminated on 14.7.1994; without any charge sheet and without any fair and proper enquiry; by violating the provisions of the Central Civil Services Rules, as well as, in violation of guidelines of the Reserve Bank of India. Challenging the action of the respondent bank, the petitioner had preferred a civil suit before the Civil Court at Patiala and the same was dismissed on 24.8.2000. An appeal was also filed by the petitioner, however, the same was also dismissed

by the District Judge on 12.11.2001. The Regular Second Appeal; bearing RSA No. 3479 of 2003; was also filed before this Court. Subsequently, the petitioner had filed an application on 31.7.2003 for withdrawing the said appeal on the ground that the respondent bank itself had questioned the jurisdiction of the Civil Court on the issue. This Court had permitted the petitioner to withdraw the appeal and also granted liberty to seek alternate remedy, in accordance with law. Thereafter, the petitioner raised industrial dispute by serving a demand notice. The dispute was referred to the Labour Court. It is the said reference; which has been answered against the petitioner.

Arguing the case, The counsel for the petitioner has submitted that the Labour Court has gone wrong in law in believing the story of the bank that the petitioner has tendered his resignation. The said resignation was under pressure. The fact that the resignation was under pressure is clarified by the very fact that even the father of the petitioner was made to witness the said resignation and signatures of the father of the petitioner were also obtained on the said resignation letter. It is further submitted that although there were allegations of embezzlement against the petitioner before the time of tender of resignation, however, the said fact of embezzlement has not been proved before the Labour Court. Hence, the Labour Court has committed legal error in answering the reference against the petitioner.

Having heard the counsel for the petitioner and having perused the case file, this Court does not find any substance in the argument of the counsel for the petitioner. The respondent bank has duly proved the factum of the resignation of the petitioner by producing the document of resignation before

the Labour Court and by examining the relevant witness. The resignation tendered by the petitioner does speak that the workman/petitioner was resigning from his job. The said resignation is stated to have been tendered by the petitioner in the presence of his father. The alleged termination order is only a communication qua acceptance of the said resignation; vide letter dated 26.7.1994. Hence, the respondent bank has succeeded in proving the resignation of the petitioner, which does not amount to retrenchment.

Although the counsel for the petitioner has submitted that the resignation was obtained from the petitioner under a coercion, however, except the bald statement of the petitioner himself, the petitioner has not produced any kind of evidence or material before the Labour Court to even remotely suggest any pressure having been put upon the petitioner at the time of tender of his resignation. Hence, the assertion of the petitioner that the resignation was obtained by the respondent bank under pressure has gone totally unsubstantiated. The petitioner has asserted that the presence or the signatures of his father on the alleged resignation were not required to be there in normal course and the very fact that even the father of the petitioner was made to witness the resignation of the petitioner, shows that the respondents had forced and pressurised the petitioner to tender his resignation. However, mere factum of witness by the father of the petitioner; qua the tendering of resignation by the petitioner; would not show any pressure upon the petitioner to tender the resignation. Rather, the fact that there was some charge of embezzlement against the petitioner lends credence to a situation; wherein to save the petitioner from some criminal consequences; his father might have persuaded

the officers to accept the resignation of the petitioner. Although the counsel for the petitioner has submitted that the fact of embezzlement has not been proved on record by the respondent bank, however, the embezzlement was not even a fact in issue before the Labour Court. The reference to the alleged embezzlement has come only as collateral reference as part of the perspective, which was prevalent at the relevant time under which the petitioner might have tendered the resignation. The Labour Court was called upon to decide only upon the validity of termination of the service of the petitioner and not upon the embezzlement. Hence, the Court below has rightly restricted itself to that aspect. On the illegality of the termination, the petitioner failed to lead any evidence whatsoever.

In view of the above, finding no merit in the present petition, the same is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

25.2.2021

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No