

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

CWP-10059-2022

Date of decision : 16.01.2023

Ashok Kumar

...Petitioner

Vs.

The Managing Director

M/S Maruti Suzuki Indian Ltd. and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ganesh Kumar Sharma, Advocate
for the petitioner.

MANOJ BAJAJ, J.

Petitioner has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of Certiorari for setting aside the order dated 04.02.2000 (Annexure P-6) passed by respondent No.3 terminating his service, as well as the award dated 03.10.2019 (Annexure P-11), whereby subsequent industrial dispute raised by the petitioner was answered against him by Industrial Tribunal-cum-Labour Court, Gurugram.

Learned counsel for the petitioner has argued that petitioner joined the service with respondent No.1- M/s Maruti Suzuki Indian Ltd, Gurugram on 22.02.1988 as attendant and during his work period, he suffered an accidental injury on 09.05.1991 and after his treatment, he again joined the work with the Management. He submits that subsequently his services were terminated by the Management on the ground that he remained absent for three different periods in each year i.e.

1996-1999. Learned counsel has argued that since the petitioner had suffered health issues while he was on duty, therefore, his absence period for few short terms could not have been the basis for extreme order of his termination from service. He has argued that the impugned order passed by the Industrial Tribunal, Gurugram against the workman is not sustainable and interference is warranted by this Court.

During the course of hearing, it is not disputed by learned counsel that for petitioner's absence from duty, a departmental inquiry was conducted against him and vide report dated 27.12.1999 the charges were held to be proved against the petitioner, and pursuant to the inquiry report, his services were terminated vide decision dated 04.02.2000.

After hearing the learned counsel and considering the above background, this Court finds that first of all against the order dated 04.02.2000 dismissing the petitioner from service, he had filed a civil suit in January, 2008 before the Civil Court and the said plaint was rejected on 15.12.2008 under Order 7 Rule 11 Code of Civil Procedure, 1908. Thereafter, the petitioner submitted demand notice dated 17.12.2013, whereupon the reference was sent to the Industrial Tribunal, Gurugram to adjudicate the dispute and the same has been dismissed vide impugned award dated 03.10.2019 (Annexure P-11). The facts and circumstances of this case reveal that the termination order was passed against the petitioner in the year 2000, whereas the industrial dispute was raised belatedly by him after a period of approximately 13 years.

Further, a perusal of the inquiry report shows that the

petitioner suffered vital admissions and admitted that during his period of absence, neither he was under treatment nor his leave was ever sanctioned, who further stated that he would maintain his attendance as per company norms.

Thus, it is clear that the stand of the petitioner that his absence periods were result of circumstances beyond his control and relate to the health issues, is not acceptable. A careful reading of the impugned award passed by Industrial Tribunal, Gurugram shows that it has carefully analyzed the evidence on record while holding the petitioner a habitual absentee, who lacks interest in the job also and these findings do not suffer from any perversity.

Resultantly, no case is made out for exercise of extra ordinary writ jurisdiction under Article 226 Constitution of India.

Dismissed.

(MANOJ BAJAJ)
JUDGE

16.01.2023
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No