

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

CWP-10534-2012

Date of decision : 16.02.2023

M/s Skol Breweries Ltd.

...Petitioner

Vs.

**Presiding Officer Industrial Tribunal-
cum-Labour Court, Panipat and another**

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. P.K.Mutneja, Sr.Advocate with
Mr. V.S.Mahal, Advocate for the petitioner.

Mr. R.S.Malik, Advocate for respondent No.2.

MANOJ BAJAJ, J.

Petitioner has filed this writ petition under Article 226 Constitution of India seeking a writ of certiorari to challenge the impugned award dated 27.01.2012 (Annexure P-12) passed by Industrial Tribunal-cum-Labour Court, Panipat, whereby the industrial dispute between the parties has been decided in favour of workman by ordering his reinstatement in service with 25% back wages.

The brief facts as pleaded in the writ petition are that the petitioner/management being engaged in manufacturing beer had employed respondent No.2, namely, Bijinder in its bottling plant in the year 1998 and on 16.09.2004, he was found consuming beer on duty and the bottles carried on the conveyor belt passed through the important check point without any inspection. Previously also the workman was found doing this and in response to the charge sheet dated 15.04.2004, he promised not to repeat this act again.

The misconduct noticed on 16.09.2004 again led to issuance of charge-sheet

dated 05.10.2004 followed by an inquiry, wherein respondent No.2 participated and after giving him an opportunity of hearing, he was held guilty through inquiry report dated 17.11.2004 (Annexure P-2). Thereafter, show cause notice was issued to the respondent No.2, who apprehending his termination tendered his resignation dated 21.12.2004 (Annexure P-4). The petitioner/management accepted his resignation on 18.01.2005 and cleared his dues of Rs.13,231/- by way of cheque bearing No.226768 dated 18.01.2005. The workman after encashing the cheque, raised the industrial dispute and served demand notice dated 29.01.2005 (Annexure P-7) to plead that the resignation is a forged instrument, whereupon the dispute reached before the Labour Court bearing reference No.225-2005.

Though no formal claim statement was filed by the respondent No.2 before the Labour Court, the petitioner/management had filed a detailed written statement. Upon completion of pleadings, the Labour Court framed three issues. Thereafter, considering the evidence adduced by the parties, Labour Court, Panipat accepted the claim of respondent No.2 vide impugned decision dated 27.01.2012. Hence this writ petition.

Learned senior counsel for the petitioner has argued that the Labour Court has failed to analyze the documentary evidence brought on record by the management showing that the workman had voluntarily resigned from the services as he apprehended his termination pursuant to the inquiry report dated 17.11.2004 (Annexure P-2) holding him guilty of misconduct. He further submits that the amount towards full and final settlement on account of acceptance of his resignation was encashed by the workman and this attending circumstance has been completely ignored by the Labour Court by holding the

resignation (Ex.M-3) to be doubtful. He submits that the finding questioning the genuineness of the resignation by the workman is based upon inferences and presumptions, therefore, the impugned award is bad in law and deserves to be set aside by exercising the jurisdiction under Article 226 Constitution of India.

On the other hand, the prayer is opposed by the learned counsel for workman, who has argued that upon closure of the petitioner's plant in 1996 as a result of prohibition in the State, respondent No.2 went to Andhra Pradesh and on the assurance of the job by the petitioner/management he returned back and also signed certain blank papers on a belief that these are for his new appointment with the company. In this regard, he has drawn the attention of the Court to the averments made in the demand notice (Annexure P-7). He submits that by misusing the signed blank papers by the petitioner, the management has falsely created a resignation letter, as there was no occasion for the workman to resign. He further submits that no doubt, the charge sheet dated 05.10.2004 was served upon the petitioner and upon conclusion of the inquiry, the workman could not have been removed from service, therefore, the management in order to illegally dispense with his services prepared the false resignation. He submits that for want of one month notice or deposit of one month wages, the resignation letter dated 21.12.2004 (Ex.M-3) cannot be treated as a valid resignation, therefore, considering the entire evidence on record, the Labour Court rightly decided the industrial dispute in favour of the workman, awarding him reinstatement with 25 % backwages. He prays that the writ petition be dismissed.

Learned counsel for the parties have been heard and case filed has

been perused carefully.

The entire case of the workman in raising the industrial dispute rests upon the pleading that the resignation letter dated 21.12.2004 (Annexure P-4) is not a genuine resignation which has been manipulated by the management by misappropriating his blank signed papers. The argument that upon returning of the workman from Andhra Pradesh he had signed the papers for re-employment in the year 1998 is without any merit as admittedly the petitioner stood employed and was subjected to domestic inquiry also, wherein the report was against him and at that stage, there was no reason for the management to manipulate the alleged signed blank papers. A reading of the resignation letter dated 21.12.2004, which is on record as Annexure P-4 shows that the workman expressed his desire not to continue with the services and tendered his resignation with a request to clear all his dues. This request was considered and accepted on 18.01.2005, which is on record as Annexure P-5 and alongwith this, a cheque bearing No.226768 amounting to Rs.13,231/- towards his dues was sent to him.

During the course of hearing, the cross-examination of workman Bijinder Singh (Ex.WW-1) was produced before the Court, and perusal of the same shows that the workman specifically admitted that the full and final payment sent to him through letter (Ex.M-2) was received by him. The witness further admitted that the cheque was deposited by him in his bank account. Thus, this material admission leaves no room for any doubt that he voluntarily resigned on 21.12.2004, and also accepted the entire dues, thereby bringing on end to the relationship of employer and employee. The material fact that he encashed the cheque towards his full and final settlement was not disclosed by

him in his demand notice also reflects his conduct that he raised the industrial dispute by concealing the relevant facts. A reading of the impugned award shows that the Labour Court has failed to appreciate the evidence in correct perspective while holding the genuineness of the resignation letter as doubtful. Thus, there are valid reasons for this Court to exercise the extra ordinary writ jurisdiction under Article 226 Constitution of India.

Resultantly, the writ petition is allowed, the impugned award dated 27.01.2012 (Annexure P-12) is set aside and the industrial dispute raised by the workman/respondent No.2 through reference No.225 of 2005 is hereby dismissed. No costs.

(MANOJ BAJAJ)
JUDGE

16.02.2023
vanita

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