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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-15817-CWP-2022 in
CM-8348-CWP-2018 in
CWP-19222-2011 (O&M)
Date of Decision: 01.02.2023

PRINCIPAL, KENDRIYA VIDYALAYA

.. Petitioner

Vs.

ASHOK KUMAR AND ANR.

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Harsh Aggarwal, Advocate
for the petitioner.

Mr. Hem Raj Bhardwaj, Advocate
for applicant-respondents.

...

Manoj Bajaj, J. (Oral)

CM-15817-CWP-2022

This application by applicant-workman is for pre-poning the
date of hearing of the main petition to an early date.

Notice in the application.

At this stage, Mr. Harsh Aggarwal, Advocate accepts notice on
behalf of the petitioner-Management and does not oppose the prayer.

Application is allowed and the date of hearing is pre-poned to
today.

CWP-19222-2011

Petitioner has filed this writ petition under Article 226
Constitution of India for issuance of a writ in the nature of Certiorari for
quashing the award dated 31.03.2011 (Annexure P-1) passed by Presiding

Officer, Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh, whereby the industrial dispute raised by respondent No.1-workman against his dismissal from service, through reference No.265/2000 has been decided in his favour by ordering his re-instatement with full back wages.

Learned counsel for the petitioner-Management has argued that the respondent No.1-workman was appointed as Group D employee on 08.06.1990 and for the said post, the required qualification was middle pass. After his appointment, it was found that the qualification certificate relied upon by the workman was fake, therefore, he was placed under suspension, however, on his written assurance dated 07.09.1992 (Ex. M-1) that he would pass the 8th Class, he was taken back in service, but he failed to acquire the required qualification, therefore, he was departmentally dealt with by issuing a charge-sheet dated 19.03.1993 for an enquiry along with two other charges, whereupon he was finally removed vide order dated 15.05.1993. Learned counsel has submitted that the learned Tribunal has not at all discussed the material evidence on record while accepting the workman's claim and answered the reference in his favour by directing his re-instatement with full back wages. According to the learned counsel, the impugned award is perverse, therefore, it deserves to be set aside.

The prayer is opposed by the learned counsel appearing for workman, who argued that the workman had never given any such undertaking as relied upon by the petitioner and referred to the statement of the workman, wherein he stated that he is duly qualified being middle class passed. He submits that the Labour Court has examined the entire evidence carefully while delivering the findings on material issues in favour of the

workman. He submits that the termination of the workman was in violation of the provisions of Section 25-F Industrial Disputes Act, 1947, therefore, the Labour Court has rightly ordered reinstatement of the workman and the impugned award does not call for any interference.

Upon hearing the learned counsel for the parties and considering the material on record, it transpires that the workman had claimed himself to be duly qualified in 1975-1976 from National Model School, Pathankot, whereas the transfer certificate (Ex.M-7) dated 02.05.1985 shows that the workman attended the said school upto 31.05.1976 after his admission on 09.05.1975 in 8th class. Thus, it is clear that the workman left the school while pursuing his studies for 8th class and no other certificate, much less relating to his qualification of 8th standard has been brought on record, and even, during cross-examination, the workman admitted that except for this transfer certificate, he has no other proof of his educational qualification.

Further, the learned counsel for workman is unable to rebut the evidence (Ex.M-1), which contains his undertaking that he would acquire required qualification and had it been a case of possessing requisite qualification, there was no occasion for the workman to give such an undertaking to get back in service. Besides, the order dated 14.05.1993 dismissing the workman from service was further challenged in appeal and the appellate authority in its decision dated 15.05.1993 (Ex.M-5) affirmed the punishment and as per the observation in the said decision, the workman even does not know the alphabets of English and Hindi.

Consequently, while analyzing the above material on record, it is evident that the labour Court has not appreciated the documentary

evidence on record carefully while returning the findings in favour of workman for ordering his reinstatement with full back wages and the said award suffers from grave illegality.

Resultantly, the writ petition is allowed and the impugned award dated 31.03.2011 (Annexure P-1) passed by Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh is set aside and the claim of the workman raised through reference No. No.265/2000 is dismissed.

As the main case is allowed, therefore, pending miscellaneous application(s), if any, be treated as disposed of.

01.02.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No