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

**CWP-15246-2014 (O&M)
Date of Decision: 01.05.2023**

Mithlesh Gupta

.. Petitioner**Vs.**

Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat and others
..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. R.S. Malik, Advocate for the petitioner.
Mr. Sukhdeep Parmar, Sr. DAG, Haryana.

...

Manoj Bajaj, J. (Oral)

This writ petition has been filed by petitioner under Article 226 Constitution of India for issuance of a writ of Certiorari for quashing the impugned order dated 25.08.2006 (Annexure P-6) passed by respondent No.2-Management, whereby the petitioner's services were terminated. Further challenge is to the order dated 23.10.2013 (Annexure P-10) & award dated 20.01.2014 (Annexure P-11) passed by respondent No.1-Industrial Tribunal, Panipat, whereby firstly, the preliminary issue raised in industrial dispute was decided against her holding the inquiry proceedings to be fair and proper, and subsequently, her claim against termination of services was also dismissed.

The brief facts leading to the writ petition are that the petitioner was employed as Clerk-cum-Typist vide appointment letter dated 14.10.1995 (Annexure P-1) by respondent no.2-Hindu Institute of Technology, Sonapat and she performed her duties with devotion. She suffered serious ailment 'PID' and acute pain in her lower abdomen and on

examination by doctor on 30.11.2005 at Bansal Hospital, Sonapat, she was

advised complete rest and medication. Since, the petitioner was not in a condition to perform her duty, despite that she worked in the school on 1st and 2nd of December, 2005 and she requested the Principal to grant her leave for two days i.e. 3rd and 4th of December, 2005, but the principal insisted for her attendance on those two dates for issuing admit cards and roll numbers to the students. Since, it was Saturday and Sunday, she requested for assigning this work to some other employee, however, her request was not accepted. On 03.12.2005, the petitioner developed throat problem, therefore, could not come to the institution and applied for casual leave and medical leave on 06.12.2005 on the basis of medical certificate. Later, on 09.12.2005, she was not allowed to enter the school and was subjected to departmental inquiry through charge-sheet dated 19.12.2005. The petitioner participated in the inquiry and vide inquiry report dated 27.05.2006, the petitioner was held guilty of the charge i.e. remaining absent from duty on 03.12.2005 and 04.12.2005. Finally, on 25.08.2006, her services were terminated, whereupon she raised industrial dispute and the reference reached before the Labour Court and vide order dated 23.10.2013, the preliminary issue relating to the departmental inquiry was decided against the petitioner holding the inquiry proceedings to be fair and proper. Subsequently, vide award dated 20.01.2014, the labour Court answered the reference against the petitioner, thereby holding termination of her services as fully justified. Hence, this writ petition.

Pursuant to the notice of motion order dated 04.08.2014, respondent Nos. 2 and 3 were represented by their counsel, Mr. Ankit Goel and they filed their written statement dated 07.02.2018, but after 28.11.2018, no one appeared on behalf of respondents No.2 and 3 and vide

order dated 11.05.2022, this Court directed the Registry to intimate the counsel for respondents No.2 and 3 about the next date of hearing and as per the office report, the necessary information was given, despite that no one has appeared on their behalf.

Learned counsel for the petitioner has argued that the petitioner had joined the respondent-school in the year 1995 and worked continuously for a long period of 10 years with sincerity and her service record was unblemished, but on account of her absence of two days on 3rd and 4th of December, 2005, the respondent No.2 has illegally terminated the services of the petitioner. He submits that the petitioner was subjected to the departmental inquiry, but the same was not fair and proper and vide order dated 23.10.2013 (Annexure P-10), the labour Court wrongly upheld the inquiry to be as fair and proper. He submits that on the basis of the findings given in the award dated 23.10.2013 adjudicating the preliminary issues relating to the inquiry, the petitioner's claim for reinstatement in service was also declined vide final award dated 20.01.2014. Learned counsel has prayed that the impugned decisions are against the facts and evidence on record, therefore, deserve to be set aside.

After hearing the learned counsel and considering the submissions, this Court finds that the petitioner was subjected to departmental inquiry for her absence on 3rd and 4th December, 2005, which was Saturday and Sunday and except for this, no other misconduct of the petitioner was ever noticed by the respondent No.2. Assumably, if the inquiry against the petitioner was fair and proper, even then the extreme punishment of dismissal from service is disproportionate.

During the course of hearing, it is not disputed by learned counsel that when the petitioner joined her services in the year 1995, she was getting a monthly salary of Rs.15,00/-, but at the time of removal from service, her monthly salary was Rs.8,000/-. Further, learned counsel has fairly stated that as on today, the petitioner is few months short of attaining the age of superannuation, and that there is no evidence on record to show that throughout this period, the petitioner remained unemployed. Thus, considering the facts and circumstances of this case, the impugned award dated 20.01.2014 (Annexure P-11) is set aside and considering the present age of the petitioner, this Court is not inclined to order her reinstatement in service, but in order to meet with the ends of justice, a lump sump compensation of Rs.1 lac is ordered to be paid to her by respondent No.2.

With these observations, the writ petition is disposed of.

01.05.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No