

237 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.24576 of 2016(O&M)
Date of decision : 21.03.2023

Christian Medical College, Ludhiana

...Petitioner

Vs.

William Freddy and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. B.D. Sharma, Advocate
for the petitioner.

None for the respondents.

MANOJ BAJAJ, J.

Petitioner has approached this Court under Article 226 Constitution of India for issuance of a writ in the nature of certiorari for quashing the award dated 06.05.2016 (Annexure P-8) passed by the Presiding Officer, Industrial Tribunal, Ludhiana, whereby while allowing the industrial dispute raised by workman, he was reinstated with continuity of service and 25% backwages.

Briefly the facts leading to the writ petition are that respondent No. 1, namely, William Freddy brought an industrial dispute through claim statement dated 17.11.2008 against his illegal termination of services by petitioner-management. The workman, joined the petitioner-Hospital in the year 1990 as Helper in Obstetrics and Gynae Department and was drawing a salary of Rs. 6,000/- per month. On 16.04.2007, his signatures were taken forcibly on some papers and his services were terminated. The workman pleaded that the action of the management-Hospital is illegal, arbitrary and

violative of the mandatory provisions of Sections 25-F and 25-G Industrial Disputes Act, 1947 and prayed for reinstatement with continuity of service and full backwages.

The claim was contested by the petitioner/management by filing the written statement, wherein his appointment in October 1990 as employee was not disputed. However, it is denied that on 16.04.2007 his signatures were obtained forcibly. As per the stand of the management two Safai workers, namely, Meena Kumari and Raj Rani, who were also posted in Obstetrics and Gynae Department, had demanded money from a patient and a written complaint in this regard was received, whereupon, the lady workers confessed the said act. The complaint of the patient and the confession of the lady workers were forwarded by the Head of Department, to the Director in a sealed envelope through workman, but he did not deliver in order to protect these employees. Later, the lady worker Raj Rani was caught while stealing a mobile phone of a patient and it was recovered from her, and when the complaint by the Head of Department reached the Director relating to the stealing of mobile phone, the Director feigned the ignorance about receiving any complaint against Raj Rani for demand of money. Upon confrontation, the workman pleaded for a lenient view and submitted his resignation which was accepted. The other averments in the claim statement were denied, and in the end it was prayed that the claim be dismissed.

In order to controvert the stand of the management, the workman had filed brief replication to the written statement and upon completion of pleadings, the Labour Court framed three issues. Thereafter, the parties adduced their respective evidence and upon analyzing the same, the Labour

Court vide its award dated 06.05.2016 ordered reinstatement of the workman with 25% backwages.

Hence this writ petition.

Learned counsel for the petitioner submits that the petitioner had voluntarily resigned from the post of Helper and it is not a case of his removal at all and the said resignation letter dated 16.04.2007 (Ex. M/2) was produced in evidence. He further submits that the workman had failed to perform his duties diligently and did not deliver the communication by Head of Obstetrics and Gynae Department, in the office of the Director relating to the proposed action against two other co-employees of the workman, who even did not dispute the lapse on his part by admitting in writing that indeed the letter handed over to him for delivering in the office of Director was lost by him and he did not inform the Department. According to the learned counsel, the material documentary evidence on record has been ignored by the Labour Court while deciding the relevant issues in favour of the workman. He submits that the impugned award ordering his reinstatement with 25% backwages deserves to be set aside by exercise of extraordinary jurisdiction under Article 226 Constitution of India.

Learned counsel for the petitioner has been heard and with his assistance the case file has been perused carefully.

The entire case of the management is founded upon the alleged misconduct of workman, who was entrusted with a communication by the office of Head of Department for delivery to the office of Director in connection with initiation of departmental proceedings against two lady co-employees, but the petitioner failed to deliver the letter and later he confessed

his fault and also voluntarily tendered his resignation. After examining the defence of the management/petitioner, it comes out that the accusation of demanding money from one of the admitted patients is not attributed to the workman, and even if, it is assumed that the workman had not delivered the communication to the office of Director, it cannot be considered as a grave misconduct as the office of Head of Department was also required to follow up the communication sent to the office of Director. The workman has taken a candid stand that he was forced to sign the blank papers and at the time of his removal from service he had already rendered continuous service for a long period of 17 years. A perusal of the impugned award reveals that the Labour Court has examined the Service Regulations of the Christian Medical College, Ludhiana, (Ex.W/2) particularly Rule 25-A, which deals with resignation by an employee and as per it, one month notice for resignation was mandatory. The resignation is a consequence of Ex.M/1, wherein the workman had acknowledged the mistake of not delivering the communication to the office of Director and the finding by the Tribunal that the resignation is a result of intimidation and threat is based upon the proper appreciation of evidence, thus, the findings do not warrant any interference. Even the quantum of backwages awarded to the petitioner are proportionate keeping in view his total length of service.

Apart from it, during the course of hearing, it is also not disputed by learned counsel for the petitioner that notice of motion in the writ petition was issued to the respondents on 30.11.2016 and at the same time only the payment of backwages was stayed. He fairly states that as the reinstatement of workman was not stayed, he was taken back in service in the year 2016 and

since then, he is performing his duties sincerely.

Resultantly, this Court at this stage, does not find any ground to exercise the extraordinary writ jurisdiction under Article 226 Constitution of India.

The writ petition fails and is dismissed.

(MANOJ BAJAJ)
JUDGE

21.03.2023
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No