

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(228)

CWP No. 25199 of 2018

Date of Decision : 11.09.2023

Manoj Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ravinder Hooda, Advocate and
Mr. Narinder Beniwal, Advocate for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

1. The present petition has been filed challenging the order dated 08.02.2017 (Annexure P-4) by which, punishment of penalty of Rs. 6,000/- has been imposed upon the petitioner and award of adverse remarks of “censure of service” as well as the order dated 01.08.2018 (Annexure P-8) by which the appeal filed against the said punishment has been dismissed.

2. The petitioner, who was working in the Haryana Roadways as a Conductor, was posted on a route from Lucknow to New Delhi. On 14.06.2016, the bus on which the petitioner was posted, was to start from Lucknow early morning and reach Delhi but, it was found that the said bus had been brought to Delhi a day prior and that too without any valid justification or approval from the competent authority. The said act of the petitioner and the driver was treated as a misconduct and a charge-sheet was issued and after holding the enquiry, as the allegations were proved by the Enquiry Officer vide his report dated 23.12.2016 (Annexure P-2), the

punishment of penalty of Rs. 6,000/- was imposed upon the petitioner vide order dated 08.02.2017 (Annexure P-4) after giving him a due show cause notice.

3. Feeling aggrieved against the said punishment, the petitioner filed an appeal, which appeal came to be dismissed by the authorities concerned on 01.08.2018, a copy of which is appended as Annexure P-8. These orders dated 08.02.2017 (Annexures P-4) and 01.08.2018 (Annexure P-8) are under challenge in the present petition.

4. Learned counsel for the petitioner argues that the punishment has been imposed upon the petitioner without any valid justification as the petitioner had sought permission from the duty Clerk to bring the bus a day before at night, hence treating the said act as mis-conduct so as to impose punishment is bad.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. With regard to the argument of the learned counsel for the petitioner that the only mis-conduct being alleged against the petitioner is that he has brought the bus from Lucknow to Delhi a day prior to the schedule but before starting the journey from Lucknow, the permission of the duty Clerk was sought, it may be noticed that the duty Clerk has no jurisdiction to change the schedule or to allow the petitioner to ply the bus in violation of the schedule fixed. Even if it is assumed that the permission was taken from the duty Clerk then also the same is not good enough as the petitioner knew that the bus is to be plied as per schedule, which schedule was violated.

7. Further, this Court cannot go into the factual aspect of the charges alleged and proved against the petitioner as the same is within the jurisdiction of the employer. Only the process followed in the departmental proceedings is within the jurisdiction of this Court unless and until, punishment is being challenged on the ground that the case is of no evidence. No argument has been raised qua any irregularity in conducting the enquiry proceedings. In the present case, not only the punishing authority but even the appellate authority has considered all the facts and have maintained the punishment, hence, this Court cannot sit in appeal over the decision of the punishing authority as well as the appellate authority so as to modify the punishment and that too by re-appreciating the facts of the case.

8. Keeping in view the facts and circumstances of the present case, where the petitioner had been given due opportunity to defend himself and the order of punishment as well as order on the appeal have been passed by the authorities concerned and no irregularity in the process followed in the disciplinary proceeding has been established, no ground is made out for any interference by this Court, especially when, no irregularity in conducting the proceedings have been pointed out by the learned counsel for the petitioner.

9. Dismissed.

September 11, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No