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

**CWP-680-2022 (O&M)
Date of Decision: 04.05.2023**

AMAR SINGH

.. Petitioner

Vs.

STATE OF PUNJAB AND OTHERS

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vinay Puri, Advocate for the petitioner.

...

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 award dated 12.10.2021 (Annexure P-6) passed by the Labour Court, Jalandhar, whereby the industrial dispute raised by the petitioner through Reference No.83 of 2018 against imposition of punishment of compulsory retirement.

Learned counsel has submitted that the petitioner had joined Punjab Roadways on 01.12.1976 as Conductor, who performed his duties sincerely, however, on the basis of a frivolous complaint alleging that on 18.08.1995, the checking staff found four passengers without ticket out of total twenty one passengers and an amount of Rs.24/- received by the petitioner-conductor from those four passengers @ Rs.6/- each was embezzled. Learned counsel further submits that the petitioner was subjected to the departmental enquiry and in response to the charge-sheet dated 07.09.1995, he denied the allegations, however, pursuant to the conclusion of proceedings vide order dated 01.06.2005, the petitioner was

compulsorily retired and the statutory appeal preferred by the petitioner was also dismissed on 19.06.2006. He submits that thereafter, the petitioner raised the industrial dispute through Reference No.44/2015 and vide award dated 01.06.2017 (Annexure P-5), petitioner's claim was partly accepted by setting aside only the punishment orders by the punishing authority, with a direction to pass a fresh order within a period of three months. Learned counsel has argued that after issuing a fresh show cause notice on 17.08.2017, the department again passed the same punishment order against the petitioner, and he again raised industrial dispute through Reference No.83 of 2018 and vide impugned award dated 12.10.2021 (Annexure P-6), the petitioner's claim was rejected. He submits that once the industrial dispute raised by the petitioner was partly accepted by the Labour Court, Jalandhar vide award dated 01.06.2017 and the punishment of compulsory retirement was set aside, the department could not have inflicted the said punishment once the petitioner had already cross the age of superannuation i.e. 31.10.2010. He submits that the approach adopted by the Labour Court is erroneous in law, therefore, the impugned award warrants interference by this Court.

After hearing the learned counsel and considering his submissions, this Court finds that upon noticing the misconduct of the petitioner relating to the embezzlement of the travel fare paid by the passengers, he was subjected to departmental inquiry and the said proceedings were fair and proper, therefore, the Labour Court in its award dated 01.06.2017 had not disturbed the conclusion of the enquiry report, but only remanded the matter before the Punishing authority to re-examine the punishment part. Thereafter, the proceedings in relation to the punishment

were again carried and the previous punishment imposed upon the petitioner was reiterated.

During the course of hearing, it is not disputed by learned counsel that after conclusion of the departmental proceedings as well as statutory appeal, the petitioner raised the industrial dispute after a gap of ten years and by that time, he had already crossed the age of superannuation. Thus, the argument that after setting aside of punishment of compulsory retirement through award dated 01.06.2017 (Annexure P-5), the punishment of compulsory retirement again cannot be imposed upon the petitioner is without any merit. A perusal of the impugned award shows that the Labour Court has examined the material on record carefully while answering the reference against the petitioner.

Resultantly finding no merit in this writ petition, this Court is not inclined to exercise the extraordinary writ jurisdiction under Article 226 Constitution of India.

Dismissed.

04.05.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No