



CWP-13857-2000 (O&M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

211

CWP-13857-2000 (O&M)
Date of decision: 18.11.2024

SHINGARA RAM

....PETITIONER

Vs.

THE PRESIDING OFFICER, LABOUR COURT, LUDHIANA AND
OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Ms. Anamika Sheoran, Advocate for
Mr. Vikas Singh, Advocate
for the petitioner.

Mr. Anil Sharma, Advocate
for respondent Nos. 2 and 3.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner-workman through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of Award dated 17.10.1995 (Annexure P-1) whereby Labour Court has answered the reference against him.

2. The petitioner joined respondents on 16.06.1982 as conductor. He came to be terminated on 11.01.1988 on the ground that he has defrauded the respondent-Corporation. During the course of checking, the respondent found that petitioner has not issued tickets to 13 passengers and retained money collected from them. An Enquiry Officer was appointed, charge-sheet was issued and reply by petitioner was filed. The Disciplinary Authority, considering report of Enquiry Officer, dismissed him from service. He served demand notice and



CWP-13857-2000 (O&M) -2-

matter came to be referred to Labour Court which by impugned order, has declined his reference. The findings recorded by Labour Court are reproduced as below:-

“A bare reading of these observations would show that an Officer superior in rank to the appointing authority has the power to issue second show cause notice and also to pass an order of punishment. It further appears that under rule 55A and 56 framed by the Uttar Pradesh Government, the enquiry could be conducted and the Enquiry Officer could be appointed by the appointing authority alone. No such rule has been shown to me which may have been framed in the State of Punjab and as such, the assertions made in this case do not apply on the facts of the case in hand. In the case in hand, the Enquiry Officer was appointed by the Dy. General Manager and show cause notice was also given to him, but the order of termination was passed by the Depot Manager. So, it is evident that an officer superior in rank to the Depot Manager had initiated the enquiry and had ordered the appointment of the Enquiry Officer and as such, no illegality have been found in the order.

- (6) *It has been next argued that the enquiry file cannot be read in evidence because the Enquiry Officer was not produced to prove the enquiry file. Reference has been made to case 1985 (2) SIR 685 Jagsir Singh Vs. The State of Punjab and others. In the case in hand, the enquiry file was produced and proved by Amarjit Singh and at that time, no objection was raised by the other party. Strict principles of rules of evidence are not applicable in Labour Courts and as such the arguments addressed by the representative of the workman has been found to be without any merit. It has been next argued that while terminating the services of the workman. Enquiry Officer had observed that he had found the service record of the claimant to be blemished. It has been argued that the*



services of the applicant have been terminated on the basis of his previous record, but no charge-sheet was given to him regarding his blemished previous record. I have gone through the order of the Depot Manager. He has found the applicant guilty of the charge and only a reference was made in the order that the previous record was not proper. Keeping in view the aforesaid discussion. I am of the opinion that a fair and proper enquiry was conducted. Accordingly, the issue is decided in favour of the respondent.

RELIEF

- (7) *It has been discussed by me that a fair and proper enquiry was conducted. I have also heard the representative of the parties on the question as to whether the termination of the services of the workman was justified or not. It was argued by the representative that the charges levelled against the workman were not so serious which requires the dismissal of the workman from service and that a lesser punishment could be awarded.*

On the other hand, it has been argued that the workman was found guilty of misappropriation and non issuance of tickets and as such, he could not be retained in service and the punishment awarded to the workman was not harsh.

I have considered the arguments advanced by the representative for both the parties. The workman was charge-sheeted for not issuing tickets to 13 passengers and also committed embezzlement of Rs. 38. He was also negligent in the discharge of his duty. Such an employee cannot be allowed to remain in service. So, the termination in this case was justified. The reference is answered accordingly.”

3. Counsel for the petitioner submits that Disciplinary Authority wrongly relied upon past service record of the petitioner. The punishment



CWP-13857-2000 (O&M) -4-

awarded was harsh. It was not proportionate to alleged offence. This Court in exercise of power conferred by Article 226 of the Constitution of India may set-aside impugned Award.

4. Per contra, Mr. Anil Sharma, Advocate submits that impugned Award was passed in 1995 whereas petitioner approached this Court in 2000. The petition itself was barred by limitation. The petitioner has not explained reason of delay. In any case, Labour Court has passed a reasoned and speaking order.

5. It is a settled proposition of law that scope of interference while exercising jurisdiction under Articles 226/227 of the Constitution of India in disciplinary proceedings is very limited. The Court has no power to look into quantum of sentence/punishment unless and until Court finds that sentence awarded is disproportionate to alleged offence. It is further settled proposition of law that High Court while exercising its jurisdiction under Article 226 of Constitution of India can look into the procedure followed by authorities. In case, it is found that enquiry officer or disciplinary authority has not considered any evidence on record or misread the evidence or procedure as prescribed by law has not been followed, the Court can interfere. A two-judge Bench of Hon'ble Supreme Court in **Union of India and others vs. Subrata Nath, 2022 SCC OnLine SC 1617** while advertng with scope of interference under Article 226 of the Constitution of India in disciplinary proceedings has held that departmental authorities are fact finding authorities. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct. The Hon'ble Supreme Court has considered its judicial precedents including a two-judge Bench



judgment in **Union of India and Others v. P. Gunasekaran, (2015) 2 SCC**

610. The relevant extracts of the judgment read as:

*“19. Laying down the broad parameters within which the High Court ought to exercise its powers under Article 226/227 of the Constitution of India and matters relating to disciplinary proceedings, a two Judge Bench of this Court in **Union of India and Others v. P. Gunasekaran** held thus :*

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into re-appreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf; (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case; (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*



(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

(i) re-appreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based.

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.”

X X X X

22. To sum up the legal position, being fact finding authorities, both the Disciplinary Authority and the Appellate Authority are vested with the exclusive power to examine the evidence forming part of the inquiry report. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct. However, in exercise of powers of judicial review, the High Court or for that matter, the Tribunal cannot ordinarily re-appreciate the evidence to arrive at its own conclusion in respect of the penalty imposed unless and until the punishment imposed is so disproportionate to the offence that it would shock the conscience of the High Court/Tribunal or is found to be flawed for other reasons, as enumerated in P. Gunasekaran (supra). If the punishment imposed on the delinquent employee is such that shocks the conscience of the High Court or the Tribunal, then the Disciplinary/Appellate Authority may be called upon to re-consider the penalty imposed. Only in exceptional circumstances, which need



CWP-13857-2000 (O&M) -7-

to be mentioned, should the High Court/Tribunal decide to impose appropriate punishment by itself, on offering cogent reasons therefore.”

6. Applying the law laid down by Hon'ble Supreme Court, this Court neither finds that punishment imposed by authorities is disproportionate to alleged offence nor finds any infirmity warranting interference of this Court. Moreover, from the perusal of record it comes out that neither there is allegation nor during the course of arguments there was averment that respondent authorities have not followed the procedure prescribed by law while conducting enquiry. The findings recorded by authorities as well as Labour Court are purely findings of fact and there is neither jurisdictional error nor patent illegality in the impugned order warranting interference.

7. The present petition sans merit and deserves to be dismissed.

8. Dismissed.

9. Pending miscellaneous application(s), if any, shall also stand disposed of.

18.11.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No