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

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Decided on : 07.03.2024

State of Punjab and another

. . . Petitioner(s)

Versus

Baljinder Singh and another

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Brijesh, AAG, Punjab.

SANJAY VASHISTH, J. (Oral)

1. Petitioners i.e. (i) Secretary to Govt. of Punjab, Transport Department, Chandigarh, and (ii) Depot Manager, PUNBUS-cum-General Manager, Punjab Roadways, Ferozepur, have filed the present writ petition, by challenging the award dated 21.04.2023 (Annexure P-6), vide which, Reference No.7517, under Section 10(1)(C) of the Industrial Disputes Act, 1947 (for brevity, 'ID Act'), has been answered in favour of the workman – Baljinder Singh (respondent No.1 herein).

2. While challenging the order of dismissal, workman (respondent No.1) pleaded that initially, he was appointed as 'Bus Driver' on contract basis by the Management and after completing the training successfully, he joined his duty with respondent – Management w.e.f. 20.06.2008. He was allotted Driver No.C.T.D.03. He performed his duty quite satisfactorily, and as a result of which, he was awarded appreciation letter by the Management. Subsequently, experience certificate dated 09.07.2013, was also issued by the respondent – Management. On 29.05.2017, when he was on duty to drive the bus No.PB05-K-9830, the Inspector on duty at Zira Bus Stand,

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made a false complaint against him for stealing the diesel from the bus. As a result of which, Management removed the workman from service w.e.f. 31.05.2017, vide letter dated 12.06.2017. Workman claimed that he has been dismissed from the service, in utter violation of Section 25-F of the ID Act, neither any notice/show cause notice nor any kind of inquiry was conducted by the Management. Thus, there is violation of principle of natural justice as well.

3. On the other hand, Management (petitioner herein) pleaded that as per the notification, in case, any person is found committing theft of oil, he can be removed from the service without any notice and security will be forfeited. For removing the workman from his service, the Management developed a reasoning by stating that upon being caught by Surjit Singh, Inspector, the workman started fighting, misbehaving and also tore the uniform of the checking party. He also snatched the mobile, which fell on the road and was damaged. Workman was drunk at that time. Gurbhej Singh, Driver No.88, and Chowkidar were also present there. Meanwhile, the staff of Dhillon Bus came on the spot, but workman ran away from there along with the pipe. Thus, allegation was levelled that workman committed misconduct with the officials and also caused loss of Rs.966/- to Rs.1074/-, and therefore, his contract was cancelled and security was forfeited vide letter dated 12.06.2017.

4. As per the evidence available on record, and having been dealt with by the learned Industrial Tribunal, Bathinda, there appears to be no dispute that the workman joined duty as Bus Driver on 20.06.2008, and he served up till 31.05.2017. Management has not brought on record any documentary evidence that the workman was ever served with any

notice/show cause notice or the charge-sheet or ever intimated for holding any inquiry. Management has broadly relied upon one notification, however, same is not appended with the present writ petition.

5. During the course of hearing before this Court, learned State counsel, referred to clause 12 of the agreement entered between the Depot Manager, PUNBUS, Ferozepur and the workman (respondent No.1). Clause 12 of the agreement says as under:-

“12. In case, Second Party are caught stealing bus fuel or found guilty of an accident, his contract will be terminated at any time without any notice and his security will be forfeited. Apart from this, the process of registering a police case against second party will also be initiated.”

6. Learned Industrial Tribunal has already taken note of the facts & circumstances as well as the appended documents, and categorical finding has been recorded that there being no notice or inquiry, the workman cannot be punished for the gross violation of the provisions of Section 25-F of the ID Act, committed by the Management. In fact, this Court sees it from the angle that mentioning of clause 12 in the agreement, is in itself illegal. No such condition can be imposed that in the eventuality of happening of a particular act, without affording any opportunity to the accused/driver, he would be removed from the service, such a condition is in violation of the principle of natural justice. Moreover, it is the admitted position on record that neither any notice was given, nor any inquiry or at least preliminary inquiry was ever conducted by the Management.

It is only one sided report, upon which, the decision is taken,

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and he was terminated from the service. It is also admitted position that neither, one month pay notice nor any amount of compensation was offered or given to the workman.

7. The allegation of committing of theft is an act of gross misconduct, which in the present case resulted into dismissal from service of the workman. Undoubtedly, as per settled law, an inquiry was required to be conducted before punishing the workman with dismissal from service.

8. With the reasons recorded in the impugned award dated 21.04.2023 (P-6), and the observations recorded in the foregoing paragraphs, I do not find any ground to interfere in the award impugned herein. Accordingly, while maintaining the award dated 21.04.2023 (P-6), present writ petition is **dismissed**.

However, it will be open for the petitioners – Management to hold an impartial inquiry by following the due process of law.

(SANJAY VASHISTH)
JUDGE

March 07, 2024

J.Ram

Whether speaking/reasoned: ✓ Yes/~~No~~

Whether Reportable: ✓ Yes/~~No~~