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

**CWP-5615-2000 (O&M)
Date of Decision: 14.08.2024**

RAM KUMAR

..... Petitioner

*Versus***STATE OF HARYANA & OTHERS**

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Gaurav Tangri, Advocate
for the petitioner.

Mr. Arvind Seth, Advocate
for respondent No.3.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of Award (Part-II) dated 14.01.1999 (Annexure P-11) whereby dismissal of workman has been upheld.

2. The petitioner joined respondent in 1972 as Field Inspector. An FIR No.74 dated 27.10.1979, under Sections 409 and 406 of IPC was registered against him. The Trial Court vide judgment dated 29.04.1992 (Annexure P-8) acquitted him extending the benefit of doubt. On the same set of allegations, vide order dated 01.02.1980, he was suspended and thereafter vide order dated 07.04.1981, dismissed from service. He, after his acquittal, raised Industrial Dispute vide demand notice dated 14.01.1993. The matter came up for consideration before the Labour Court at Hisar which passed award in two parts i.e. Part-I and Part-II. By



Part-I, the Labour Court held that workman was dismissed without conducting inquiry, therefore, straightaway dismissal from service was bad in the eyes of law. The Labour Court in Part-II adverted with other issues and found that workman was found guilty vide award Ex.M-12 for embezzling a sum of Rs.29656/-. The award passed against workman attained finality because it was neither challenged by way of appeal nor revision. He had undergone civil imprisonment due to default in the deposit of the awarded amount. Considering the conduct of workman, the Labour Court answered the reference against him. The relevant extracts of impugned award are reproduced as below:

“3. As already discussed and found in preliminary Issue, reply of the workman Ex. M-7 dated 5-11-1980, cannot be considered as his confession, regarding embezzlement, but can be said as admission of mis-conduct, regarding negligence in performance of his duties, resulting into the loss of 80 urea bags to the respondents management, valuing Rs. 6200/-

4. Further admittedly, award Ex.M-12, against the workman for having embezzled a sum of Rs.29656/-and ordering the recovery thereof from this workman, had attained finality. It was not challenged by way of appeal or revision. Rather on the other hand, workman had undergone civil imprisonment, due to default in the deposit of the awarded amount. Therefore, these mis-conducts, on the part of the workman, are amply established. Simple acquitted of the workman in the criminal trial by getting benefit of doubt, is of no much help to him.

5. Learned A.R. of the workman, has argued that since after finding on preliminary issue against it, respondents management has led no evidence to prove misconduct, so aforesaid evidence cannot be considered against the workman. He has also cited NEETA KAPLISH VS.



FRESIDING OFFICER LABOUR COURT AND ANOTHER JT 1998(8) S.C. 315. In the facts and circumstances of the case inhand, it is very clear that there is no merit in this contention.

Both the learned A.R. 's of the parties, after the decision on preliminary, issue, had given their statements to the court, for opting evidence already on the file. Therefore, it cannot be said that evidence which had already come on record, cannot be considered. cited ruling has no bearing on the facts of the case in hand, as in the facts of the cited ruling after finding on preliminary issue, management had relied upon on the evidence only recorded during enquiry. The dispute before the Court was whether that material could have been considered when the finding that enquiry had vitiated, due to violation of principles of 'Natural Justice'. Here in the case in hand, parties have not relied upon the material come on record during enquiry, but have relied upon the evidence already on the file. Even in the cited ruling, the case was remanded back to the Labour Court, for deciding the case afresh, after requiring the parties to, lead evidence afresh on merits.

6. *Since, aforesaid proved mis-conducts of negligence and embezzlement are serious and grave in, nature which had resulting into huge financial loss to the respondents management, It cannot be said that order of dismissal was not proportionate, or unreasonable to the misconducts proved. Consequently, this issue is hereby answer in favour of the respondents management and against the workman.*

7. *Issue No.21 Admittedly, Impugned order of dismissal dated 7.4.1981, had already become final. No appeal or revision was filed against it. The workman had kept mun throughout. Even as per his case, he had sent his first representation Ex.W-5 which is dated 14.8.1992, which was after the acquittal dated 29.4.1992. 'Admittedly, departmental proceedings, resulting into dismissal were not*



subject to the result of criminal trial. The two proceedings were quite different and distinct. Therefore, acquittal in criminal trial, due to benefit of doubt, is of no material help to the workman. Besides acquittal, there is no explanation whatsoever for this much delay of about 12 years. Therefore, the reference is hopelessly time barred. Consequently, this issue is hereby accordingly decided in favour of the respondents management and against the workman.

8. *ISSUE NO. 3 In view of the findings on issue No. 1 and 2, it is also very clear that claim of the workman is not maintainable. neither on merits, nor due to limitation. Therefore, this issue is hereby decided in favour of the respondents management and against the workman.*

9. *RELIEF:/Sequal to the findings on above issues on merits, this reference is hereby answered in favour of the respondents management and against the workman, to the effect that termination of the service of Ram Kumar cannot be said as not in order or unjustified. He is not entitled for any relief.”*

3. From the perusal of impugned award, it comes out that petitioner was found guilty of misappropriation of 80 Urea bags. The Management could not prove case against him *qua* said bags, thus, he was acquitted in criminal proceedings. He was found guilty of embezzlement of Rs.29,656/-. An award was passed against him and he did not challenge the said award. The order of dismissal from service was passed on 07.04.1981 and workman never challenged the said order by way of appeal or revision. He challenged his dismissal order after his acquittal. The criminal proceedings are independent from departmental proceedings. Acquittal from criminal proceedings does not automatically entitle an employee to reinstatement. The petitioner was not only guilty of misappropriation of 80 Urea bags but also of embezzlement of



Rs.29,656/-.

4. Considering the conduct of workman, this Court does not find any ground to interfere with impugned order.
5. Dismissed.
6. Pending misc. application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

14.08.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>