

Neutral Citation No: 2024-PHHC-067838 1
CWP-8768-2023
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
CWP-8768-2023
Decided on:13.05.2024

Nasib KumarPetitioner
Versus
Assistant Labour Commissioner, Patiala and others
.....Respondents

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Devender Arora, Advocate for
Mr. Rahul Arora, Advocate for the petitioner.

Mr. Brijesh, Asst. A.G., Punjab.

SANJAY VASHISTH, J.(Oral)

1. Present writ petition has been filed by Nasib Kumar, aged 41 years, challenging the award dated 14.01.2022(Annexure P-10), passed by the Industrial Tribunal-cum-Labour Court, Patiala (for short, 'the Labour Court'), whereby reference No. 128 of 2018, filed under Section 10 (1) (c) of the Industrial Disputes Act, 1947 (for short, the Act of 1947') has been answered against him.

2. Pleaded case of the workman before the Labour Court was that he was appointed as 'Sweeper' on compassionate ground vide letter No.9418 dated 25.05.2016 at Government Medical College, Patiala. It was further pleaded that services of the workman were terminated abruptly without fair and proper enquiry on 21.08.2017. At the time of termination, the workman was drawing the salary at the rate of Rs.4,900/- per month. The employees junior to the workman



were retained in service and at the time of termination of service of the workman, no notice, notice pay or retrenchment compensation was given. Thus, there is violation of provisions of Sections 25-F, 25-G and 25-H of the Act of 1947. It was further pleaded that before removal from the service, no fair and proper inquiry has been conducted, thus, it amounts violation of principles of natural justice.

3. In the written statement filed by Principal, Government Medical College, Patiala (respondent No.4 herein), it was pleaded that the workman was appointed on 25.05.2016 and was required to join duty within one month from the issuance of the appointment letter. It was also intimated that in case the services is not joined within prescribed time, his appointment will be deemed as 'cancelled'. Even, despite giving several phone calls, workman did not join the duty.

Subsequently, another letter dated 30.06.2016 was issued by the Principal, Government Medical College, Patiala for grating him further 20 days for joining the duty, but he again failed to join. Also, on 31.08.2016, Principal, Government Medical College, Patiala extended the period of joining the duty by 15 days. At last, the workman joined the duty on 15.09.2016.

By giving aforesaid explanations, Management pleaded that all the intimations were sent to the workman through official letters and telephonic calls, but the workman never joined, which



shows his conduct that he was least interested to serve the Management.

4. After joining the service, the workman was never sincere towards duties assigned to him and he started absenting himself for a long period without prior sanctioning of the leave from the respective department. Workman was absent from duty for more than 200 days without informing the department and even without taking prior sanction of leave. The Professor and Head of the Department of Pharmacy, vide its letter No.536 dated 12.10.2016, intimated to the office of Principal, Medical College Patiala that the workman is absent from duty on 23.09.2016, 24.09.2016 and 01.10.2016 to 12.10.2016, without informing the department. Subsequently, Principal, Government Medical College, Patiala, vide letter dated 14.10.2016, asked the workman to join the duties within 2 days and give explanation regarding his absence. Even thereafter, the workman did not join the duties.

5. Putrid with the conduct of the workman, vide letter dated 02.11.2016, a Committee of three members was constituted and the workman was directed to appear before the Committee to explain the reason of his absenteeism from service. On 31.01.2017 i.e after a long time, the workman appeared before the Committee and gave a self-declaration that in future he will not be absent from duty. Thereupon, a lenient view was taken by the Committee and another chance was



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granted to the workman. On the recommendation of the Committee on 07.02.2017, workman was permitted to join the duty. Even, this time also conduct of the workman did not change and after taking two days casual leave on 06.04.2017 and 07.04.2017, workman remained continuously absent from duty. Again, vide letters dated 25.04.2017 and 17.05.2017, workman was asked to join the duty. On 06.06.2017, the workman joined the duty and gave in writing that it would never happen in the future. After taking a casual leave on 29.07.2017, the workman again remained absent without informing the department. Ultimately, vide letter dated 21.08.2017, Management terminated the services of the workman in view of the terms and conditions of the appointment letter as his conduct was not found satisfactory during his probation period as he remained absent for a long time without informing the Management.

6. While recording the findings, learned Labour Court categorically held that the workman has failed to prove that his termination from service is illegal and unlawful as his conduct was found not satisfactory during the probation period as he was habitual absentee without seeking the permission from the Management and this fact has been duly proved in the written statement filed by the Management.

7. This Court is of the view that the workman was appointed to the post of 'Sweeper' and was on probation for a period

of two years and remained absent from service for a long period without seeking any permission from the Management. Despite, the telephonic and written requests being sent to the workman several times, the workman did not join his duties, which shows his conduct was never serious toward the duty he was assigned to. Once, the conduct was taken into consideration, which is not broadly disputed by the workman, the only argument raised by the learned counsel for the petitioner that before termination, a fair and proper enquiry was required to be conducted, carries no substance because the termination from service was done as per the terms and conditions enumerated in the appointment letter as the workman remained absent on regular basis during the probation period. Even, this Court is unable to express sympathy to such a workman who did not value the job assigned to him.

A finding of fact has been recorded by learned labour Court after examining the material available on record. Therefore, this Court does not find any reason to cause interference with the impugned award, and by maintaining the same, the present writ petition is **hereby dismissed**.

13.05.2024
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[SANJAY VASHISTH]
JUDGE

Whether speaking/reasoned	yes
Whether reportable?	yes