

CWP-2748-2013

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

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**CWP-2748-2013  
Decided on: February 07, 2024**

**The Punjab State Power Corporation Limited**

**...Petitioner**

**Versus**

**Presiding Officer, Industrial Tribunal, Bathinda and others**

**...Respondents**

**CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**

Present: Mr. Vikas Chatrath, Advocate,  
for the petitioner.

Mr. D.D. Bansal, Advocate,  
for respondent Nos. 2 and 3.

**SANJAY VASHISTH, J.**

1. Punjab State Power Corporation Limited (PSPCL), being Management, has filed the present writ petition, challenging award dated 05.10.2010 (Annexure P-1), passed in Reference No. 141/2007/97, whereby reference under Section 10(1)(c) of the Industrial Disputes Act, 1947 (for short, 'the Act'), has been answered by the learned Industrial Tribunal, Bathinda (here-after referred to as, 'the Tribunal'), in favour of Harinder Singh (workman), who died during pendency of the proceedings before the Tribunal.

2. Vide the impugned award, it has been held that the enquiry conducted by the management is not in accordance with law and, therefore, orders terminating the services of the workman are absolutely unjustified and illegal. Resultantly, the management has been directed to pay full back wages to the LR's of the workman, from the date of termination of his service

i.e. 14.01.1991, till the date of his death i.e. 24.04.1998, with all consequential benefits within two months. It has further been ordered that in case of non-payment within stipulated time, the management shall also be liable to pay interest @ 12% per annum from due date till the actual realization.

3. Petitioner-management has also sought quashing of the order dated 15.02.2012 (Annexure P-2), passed by the Tribunal in Miscellaneous Application No. 22/2010, dated 19.12.2010, whereby prayer of the management for review of the award dated 05.10.2010, in regard to grant of back-wages to the legal heirs of the workman, has been rejected.

4. Facts borrowed from the award are that workman-Harinder Singh (since deceased) filed his demand notice/statement of claim that he joined as Upper Division Clerk (UDC) with the management on 23.01.1970. His services were terminated on 13.06.1996 without any notice, charge-sheet, enquiry or compensation, illegally, wrongfully, arbitrarily and with malafide intention.

5. In the written statement filed by the management, the date of joining of service as UDC has been admitted. It was further pleaded that workman was terminated from service w.e.f. 20.04.1995, for his misconduct and willful absence from duty w.e.f. 14.01.1991. Disciplinary action was taken; charge-sheet was served upon the workman; proper enquiry was conducted; after receipt of enquiry report, final show cause notice was issued to the workman; and subsequently vide letter No. 641, dated 20.04.1995 read with Office Order No. 841, dated 13.06.1996, the services

of the workman were terminated. Broadly speaking, management pleaded that the workman absented himself from duty on 14.01.1991.

6. It is an undisputed fact that the workman died on 24.04.1998. His wife also expired during the pendency of proceedings before the Tribunal, and his sons (respondent Nos. 2 and 3 herein) intervened and joined the proceedings being LRs of the workman.

7. Basic ground raised by the workman was that the basis of terminating him from service is the enquiry report dated 03.02.1994 (Ex. M/8), which is appended with the present petition as Annexure P-5.

8. While arguing before this Court, Mr. Vikas Chatrath, learned counsel representing petitioner-management, refers to the enquiry report (Ex. M/8) [Annexure P-5] and submits that the gist of the enquiry has been produced on record in the shape of enquiry report. From no stretch of imagination, the said enquiry report suggests that any step required under law was left out and due process was not followed.

9. However, it is not denied by the learned counsel that either the enquiry proceedings or the orders, opportunities or the statements were never part of the proceedings before the Tribunal. Therefore, while putting him the observation made by the Tribunal in paragraph No. 15 of the award, learned counsel for the petitioner-management could not point out any factual error.

10. Thus, it is an admitted position that the management did not dare to produce the enquiry file and proceedings for perusal/examination of the Tribunal, for exercising its power under Section 11A of the Act, and

without producing the enquiry file or even production of the Enquiry Officer in the witness box, such an enquiry report is of no consequence. Therefore, the same has been rightly ignored by the Tribunal.

11. In the second limb of the argument, Mr. Vikas Chatrath also relies upon the fact that for the purpose of leading additional evidence, one application dated 27.08.2010 (Annexure P-7), was filed by the management before the Tribunal. But the said application was never decided by the Tribunal. However, learned counsel for the petitioner-management could not satisfy this Court, whether after filing of the application dated 27.08.2010 (Annexure P-7), prayer made therein was ever pressed. Even, there is nothing mentioned in the impugned award about the said application.

12. Otherwise also, prayer in the application was not to lead any material or clinching evidence. Only following three documents were sought to be produced in evidence:

- (i) Final Notice Memo No. 1872 dated 09.03.1995.
- (ii) Office letter No. 1865 dated 11.10.1993.
- (iii) Statement of the workman recorded by the Inquiry Officer on 05.11.1993 in which he voluntarily said that I will defend my own case.

13. There were many other proceedings/documents such as – notice, issuance of charge-sheet, name of the Enquiry Officer, list of witnesses, opportunity to the workman to have assistance of some co-worker or counsel, opportunity to the workman to lead evidence etc. All such

parameters have already been culled out by the Tribunal in paragraph No. 15 of the award, which are reproduced as under:-

- a) Whether charge sheet was served upon the workman, whether workman filed reply to the charge-sheet, whether the reply of the workman was considered and found not satisfactory?
- b) Whether the department has proved during the enquiry regarding the alleged absence of the workman from duty?
- c) Whether the workman was allowed to cross-examine the witnesses of the department?
- d) Whether the workman was provided assistance of co-worker?
- e) Whether the workman was allowed to lead evidence in defence?"

14. Therefore, even allowing of the prayer made in the application dated 27.08.2010 (Annexure P-7), would not have been of any help to the management. The questions which were formulated by the Tribunal (reproduced here-above), could not have been adjudicated properly only on the basis of aforementioned three documents sought to be produced as additional evidence by the management.

15. Next limb of the argument addressed by Mr. Vikas Chatrath, learned counsel for the petitioner-management, is in regard to the order dated 16.09.1993 (Annexure P-3), passed in CM No. 9232 of 1993 in CWP No. 7263 of 1993. Said writ petition was filed by the workman-Harinder

Singh challenging his transfer order.

While referring the order dated 16.09.1993, learned counsel for the petitioner-management contends that the workman has been found to be absent from duty, therefore, for the said period he could not be held entitled for back-wages.

16. This Court has gone through the order dated 16.09.1993 (Annexure P-3). Contention of the management is found to be recorded in the first part of the said order, which gives an impression that as per the case of the management despite the transfer order, workman-Harinder Singh did not join at the place, rather his presence at Bathinda was not considered in the interest of Punjab State Electricity Board. In other words, the management admits that the workman was working at Bhatinda despite of the transfer order, but without abiding to the direction to join at Ropar. Therefore, such a period cannot be treated as a period of complete absence. His working at Bhatinda is required to be held as genuine or not, was never a question before this Court or before the Tribunal. Therefore, nothing is required to be adjudicated on that count.

17. Lastly, Mr. Vikas Chatrath submits that the interest @ 12% per annum from due date till the actual realization, payable to the LRs of the workman, on account of delayed payment of back-wages, is on very higher side, which may be lowered down because, the person (workman) who worked and was entitled for the amount, is no more and the monetary benefit has to be transferred to his LRs.

18. Taking note of the submission, this Court is of the firm opinion

that the finding of the Tribunal in regard to the rate of interest i.e. @ 12% per annum, is required to be modified and it is just and reasonable to lower down the rate of interest from 12% to 7% per annum. However, rest of the findings recorded by the Tribunal shall remain intact.

For making it more explicit and clear, in paragraph No. 19 (Relief) of the impugned award passed by the Tribunal, everything else will be treated as intact, except the last line, which shall be read as “....***in failure, the respondents shall be responsible for paying the arrears as ordered above with interest @ 7% per annum from due date till the actual realization.***”

19. With the aforementioned modification in the impugned award dated 05.10.2010 (Annexure P-1), the observations/findings recorded by the Tribunal are upheld.

20. Writ petition stands **disposed of** in the above terms.

(SANJAY VASHISTH)  
JUDGE

February 07, 2024  
Pkapoor

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|----------------------------|----------------------|
| Whether speaking/reasoned? | ✓ Yes/ <del>No</del> |
| Whether reportable?        | ✓ Yes/ <del>No</del> |