



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.33 of 2016 (O&M)
Reserved on: 09.09.2024
Date of Order:16.10.2024

Maruti Suzuki India Limited, Gurgaon

.Appellant

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon
and another

..Respondents

LPA No.40 of 2016 (O&M)

Maruti Suzuki India Limited, Gurgaon

.Appellant

Versus

Ram Pal Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. D.S.Patwalia, Sr. Advocate with
Mr. A.S.Chadha, Advocate
for the appellant.

Ms. Abha Rathore, Advocate
for respondent no.2.

ANIL KSHETARPAL, JUDGE

1. BRIEF FACTS OF THE CASE

1.1 With the consent of the learned counsel representing the parties,
two connected intra court appeals filed against the judgment of the learned
Single Judge shall stand disposed of by a common order. LPA No.33 and 44
of 2016 have been filed by the Management.

2. Sh. Ram Pal Singh was ordered to be dismissed by the
Management from service after holding a departmental inquiry on

22.12.1997, on the ground that he is habitual in remaining absent and he produced fake medical certificates to justify his absence. In substance, the workman remained absent for a period of 38 days. The Labour Court exercised enabling power under Section 11A of the Industrial Disputes Act, 1947, to scale down the punishment of 'dismissal from service' and substituted the major punishment of dismissal to that of 'stoppage of two increments with cumulative effect'. In the two writ petitions, one filed by the Management, whereas the other filed by the workman, the learned Single Judge on 28.05.2015, modified the award to the extent that the workman would be notionally entitled to increments from the date of dismissal of service. If any person junior to the petitioner in the cadre and in service has been granted promotion etc. in the meanwhile then the workman would also have right of parity of pay granted retrospectively but computed notionally so as to bring his pay at par with such junior but without a right to monetary benefit prior to the date of award by stepping up of pay as were given to the juniors appointed to service in 1997 or thereabout except as indicated above. However, the award of reinstatement in service with 25% of the arrears of back wages was upheld.

2. ARGUMENTS PUT FORTH BY THE LEARNED COUNSEL REPRESENTING THE PARTIES:-

2.1 The Management's senior counsel while drawing the attention of the court to two charge sheets issued on 08.07.1996 and 09.08.1996, submitted that the aforesaid charges were proved in the domestic inquiry which has been found fair and proper by the Labour Court in the preliminary award dated 03.12.2009. He submits that while passing the final award, the Labour Court exceeded its jurisdiction on setting aside the dismissal and

ordering reinstatement with 25% of the arrears of back wages. He submits that the Labour Court does not have jurisdiction to interfere in the penalty ordered by the Management unless it is perverse, disproportionate and shocks the conscience of the Court. He submits that the workman was not only guilty of remaining absent from duty without any sanctioned leave but also submitted fake medical certificates.

2.2. Per contra, the workman's counsel has submitted that the workman had 12 years of unblemished service before the alleged incident which would be proved from the documents Ex.PW1/1 to PW1/6, proving 100% attendance and commendation certificates from 1986-87 to 1995-96. She further draws the attention of the court to the cash rewards given to the workman for the punctuality. She submits that the service record of the workman was not taken into consideration while ordering 'dismissal from service'.

3. **ANALYSIS AND DISCUSSION:-**

3.1 This Bench has considered the submissions of the learned counsel representing the parties while evaluating and analyzing their respective submissions.

3.2 It is evident that the workman was falsely implicated in a criminal case by the Police which was un-connected to his employment as he was discharged by the Judicial Magistrate on 30.03.1997. The workman in order to avail his remedies in the criminal case, left the place of work on 31.05.1997. The workman claims that he sent request for sanction of leave which was not given any response. The workman had gone to his village where he had fallen sick. The medical certificate was also produced. The

second charge sheet was issued to the workman on the charge of producing fake medical certificates. The Labour Court as well as the learned Single Judge has found that the workman was not a habitual absentee and his past service record was excellent but it was not taken into consideration by the Management while awarding extreme punishment of dismissal.

3.3 Even if it is proved that the workman while being absent was trying to avail his legal remedy of anticipatory bail, hence was underground. However, that itself would not be sufficient to hold that the petitioner was regularly absenting from the work particularly when he was given certificates of 100% attendance and commendation certificates regularly for a period of 12 years when he remained in employment. While recognizing the requirement of the enabling power of the Labour Court/ Industrial Tribunal to pass appropriate orders, Section 11A of the Industrial Disputes Act was introduced by the Parliament in the year 1971, through which sufficient enabling powers were conferred on the Labour Court to give appropriate relief in case of discharge or dismissal of workman. The charges proved against the workman were not grave. Before imposing extreme punishment of dismissal from service, the Management was required to take into consideration his 12 years passed unblemished service and the circumstances in which the workman was placed.

3.4 On the other hand, the Management went to the extent of getting a communication from the doctor that the Medical Certificates are fake. Subsequently, the Doctor gave in writing that he was pressurized by the Management to give incorrect certificate. The workman at that time had 133 days of medical leave available to his credit in his leave account. The

Management did not sanction the medical leave and rejected the same.

However, the rejection was not communicated to the workman as required by the standing order.

3.5 The Management's counsel relies upon the judgment passed in **M.L.Singla vs. Punjab National Bank and another, (2018) 18 Supreme Court Cases 21**. This Bench has carefully read the aforesaid judgment. The court found that the Labour Court committed more than one jurisdictional error in answering the reference as the Labour Court failed to decide the validity and legality of domestic inquiry which was required. Hence, the aforesaid judgment with highest respect is not applicable to the facts of the present case.

3.6 The Management's counsel further relies upon the judgment passed in **M/s Tata Engineering and Locomotive Co. Ltd. vs. N.K.Singh, (2006) 12 SCC 554**, in which the Labour Court without indicating reasons as to why the punishment was disproportionate to the charges proved; substituted the punishment. Hence, the aforesaid judgment dose not come to the rescue of the Management. In this case, the Labour Court has considered all aspects including the fact that the past service record of the workman was not taken into consideration and while passing the order of punishment and the finding of the Management that the workman was a habitual absentee was factually incorrect. The Labour Court reduced the punishment to the stoppage of two increments with cumulative effect and the workman was ordered to be reinstated with continuity of service and 25% back wages.

3.7 In these circumstances, the Labour Court and the learned Single Judge have exercised their discretion. The scope of interference in Letters

Patent Appeal is limited. This Bench is exercising power of judicial review while hearing the intra court appeals. The Court has the power to interfere in the punishment of dismissal or discharge even after holding that the domestic inquiry was fair and proper. Such exercise of jurisdiction by the Labour Court and the learned Single Judge is not proved to be suffering from any illegality or perversity so as to interfere.

3.8 The learned counsel representing the parties admit that the workman would have retired on 21.05.2021, on attaining the age of superannuation. It is the management which challenged the Labour Court's award dated 20.01.2012, before the High Court. Now at this stage, it is not considered appropriate to interfere with the judgment passed by the learned Single Judge.

4. **DECISION**

- 4.1 Hence, both the appeals are dismissed.
- 4.2 All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

16th October, 2024
nt

Whether speaking/reasoned :

Whether reportable :

Yes/No

Yes/No