



Neutral Citation No.
CWP-10015-2012

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

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CWP-10015-2012**Date of Decision:10.05.2024**

**DISTRICT AYURVEDIC OFFICER, NEAR CIVIL HOSPITAL,
SIRSA**

.... Petitioner**Versus****PRITAM SINGH AND ANR****....Respondents**

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Praveen Chander Goyal, Addl. A.G., Haryana.

Mr. Naveen Jhajhohia, Advocate for

Mr. Sanjiv Gupta, Advocate for the respondent No.1.

SANJAY VASHISTH, J.(Oral)

1. Instant writ petition has been filed by District Ayurvedic Officer, Sirsa (Managment), challenging the award dated 02.11.2011 (Annexure P-3), passed by learned Labour Court, Hisar, whereby reference No.6 of 2009, filed under Section 10(1) (c) of the Industrial Disputes Act, 1947 (for short, 'the Act of 1947') has been answered in favour of workman-Pritam Singh.

Learned Labour Court has held that regular enquiry was required to be conducted and in the absence of same, termination of services of the workman was found to be not in accordance with law. Consequently, workman has been ordered to be reinstated in services



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with immediate effect, however, the entitlement qua back wages has been denied. The workman has been held to be entitled for the benefit of seniority and the absence period has been considered as without pay and same would be counted for the purpose of completion of service, but without any emoluments/subsistence allowance for the period 13.11.2007 till 02.11.2011 i.e. the date of the passing of the award.

2. Plead case of the workman was that he was engaged by the respondent-Department on 29.10.2002 through employment Exchange as “Sweeper” at Gramin Ayurvedic Dispensary Mangala, District Sirsa. On 29.09.2004, his category was changed from ‘Sweeper’ to ‘Water Carrier’. He worked continuously upto 13.11.2007 without any complaint against him. The services of the workman were terminated without following the principles of natural justice. Moreover, no show cause notice or opportunity of personal hearing was ever afforded. Even, appeal filed by the workman was not decided. Resultantly, an Industrial Dispute was raised by the workman through demand notice dated 27.11.2008. On failure of the conciliation efforts, matter was referred to the Labour Court as reference No. 6 of 2009 for its adjudication.

3. In the response/written statement filed by the petitioner-Management, it was pleaded that workman was initially appointed as ‘Sweeper’, however, later on his category was changed to ‘Water

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Carrier'. His appointment both as 'Sweeper' and 'Water Carrier' were on part time basis and his services were taken only for three hours a day and for holidays, no wages were paid. When it was found that the work and conduct of the workman was not good, his services were terminated. There were complaints made by the Villagers and the Staff Members against the workman. The enquiry was conducted at the instance of Dr. Rajinder Prasad and Dr. Rajinder Virswa. Both of them found the workman to be guilty of the act of smoking in the Dispensary. It was concluded that the workman misbehaved with a female employee, namely, Saroj Bala, Incharge of the Dispensary. Accordingly, a show cause notice was issued, calling for explanation of the workman. Authorities were not satisfied with the explanation given to the show cause notice, thus, the services of the workman were terminated on 13.11.2007.

4. After pleading of the parties, learned Labour Court framed following issues:

- "1. whether the termination of services of workman Sh. Pritam is legal or not.
If not, to what relief he is entitled to ?OPA*
- 2. Relief."*

5. After leading of the evidence by both the sides, Labour Court found that the alleged conduct was required to be examined by holding a regular enquiry. In the absence of any such enquiry, only on the basis of unsatisfactory reply to the show cause notice by the



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workman, termination was held as illegal as per law. Learned Labour Court also observed that the termination of service of the workman is in violation of principles of natural justice and in non-compliance of Section 25-F of the Act of 1947.

6. Once a fact had emerged during the course of the enquiry (preliminary enquiry) conducted by Dr. Rajinder Parsad and Dr. Rajinder Virswa that the allegations is of smoking in the Dispensary and misbehaving with the lady worker, Incharge of the Dispensary, a regular enquiry was to be conducted by issuing charge sheet etc., the witnesses could have been examined including the female employee, namely, Saroj Bala. But without any such exercise, the truth could not be revealed out, which certainly amounts to violation of principles of natural justice. Rather, not conducting of the regular enquiry would amount depriving the appearance of the relevant witnesses before the enquiry officer so that the workman could avail the chance of cross examining such witnesses(s).

7. For reference, findings recorded by learned Labour Court in paragraph No. 11 and 12 are reproduced herebelow:

“11. The answer to said question is negative. Said procedure was not followed. Only a preliminary enquiry was conducted and in said enquiry the applicant was not given an opportunity to cross-examine the witness produced by the respondent before the enquiry officer. On the basis of said enquiry report a show cause notice was issued to the applicant which was replied by the applicant but it was not found satisfactory. If it was not found satisfactory a regular enquiry was required to be



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held. The enquiry report along with enquiry proceedings has been placed on the files as Ex. M7.

12. For the reasons recorded above, I am the view that the termination of the services of the applicant was neither in accordance with law nor in order and was thus invalid. This issue is, therefore, decided in favour of the applicant”

8. To the view point of this Court, the impugned award is worth sustainable, also on account of the fact that already a reasonable and implied order of punishment has been ordered by the Labour Court, which has resulted into the equal balancing of the scale of justice by following the principle of equity.

Workman has not been paid any amount towards backwages. Even, he has been given notional benefit of seniority but without pay. Not only this, his absence period would not make him entitled to claim any amount of emoluments/subsistence allowance. Therefore, this Court does not find any reason to cause any kind of interference with the impugned award.

However, looking at the aspect that the workman, who is present before this Court, is physically handicapped, having a weak health and stated to be of the age of about 58 years i.e. at the verge of his retirement, thus, the award qua relief is hereby modified by awarding a lump sum amount of compensation of Rs.4,00,000/- (Rupees four lacs only) to the workman.

9. Management is directed to pay a lump-sum amount of Rs.4,00,000/- (Rupees Four lacs) as compensation to workman, within



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a period of three months from today i.e. on or before 10.08.2024, failing which, **Management would be liable to pay the lump-sum amount of compensation of Rs.4,00,000/- (Rupees Four lacs only) along with interest @ 6% per annum, from the date of passing of this order i.e. 10.05.2024 onwards.**

However, it is made clear that the said amount of lump sum compensation of Rs.4,00,000/- would be towards all the relief awarded vide award dated 02.11.2011 (Annexure P-3) and also raised through the demand notice by the workman. The workman would not be entitled for any extra benefit/relief.

10. With the aforementioned observations, the present writ petition stands disposed of.

May 10, 2024
rashmi

Whether speaking/reasoned
Whether reportable?

**[SANJAY VASHISTH]
JUDGE**

yes/no
yes/no