



**102+221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM-514-CWP-2025 in/and
CWP No.12796 of 2000
Date of Decision : 28-01-2025**

**M/S THE EXECUTIVE ENGINEER/OP DIVISION HARYANA
STATE ELECTRICITY BOARD NARNAUL**

.....Petitioner

VERSUS

**THE PRESIDING OFFICER INDUSTRIAL TRIBUNAL CUM
LABOUR COURT AND ANOTHER**

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Pritam Saini, Advocate
 For the petitioner.

 Mr. Ishnoor Singh, Advocate
 for the respondent No.2.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-514-CWP-2025

 This is an application for impleading the legal heirs of
respondent No.2.

 Keeping in view the contents mentioned in the application, the
same is allowed. The LR's of respondent No.2 are impleaded as party to the
present petition only for the purpose of pursuing the present litigation.

 Registry is directed to make necessary changes in the memo of
parties by impleading the LR's of the respondent No.2 as party to the present
petition.

CWP No.12796 of 2000

1. In the present petition, the challenge is to the award dated 10.04.2000 (Annexure P-2) passed by the Labour Court Gurgaon by which, respondent No.2 has been reinstated in service along with 50% backwages on the ground that the punishment of dismissal from service is disproportionate to the misconduct.

2. Learned counsel appearing on behalf of the petitioner submits that the respondent No.2 was appointed on the post of Chowkidar on 18.03.1985 in the Haryana State Electricity Board and while he was on duty on the night on 03/04.06.1987, respondent No.2-workmen left the premises in question and went home and theft took place and the cash lying in the premises was stolen. Thereafter, an inquiry was conducted wherein, the respondent-workmen was found to be absent from duty due to which, the loss was caused to the State Exchequer and he was dismissed from service, which action was challenged by the respondent-workmen before the Labour Court and the Labour Court vide impugned order dated 10.04.2000 has set aside the dismissal only on the ground that the punishment imposed is disproportionate to the charges alleged and the respondent-workmen has been directed to be reinstated with 50% of backwages.

3. Learned counsel for the petitioner argues that as per the settled principle of law unless and until the punishment imposed is shockingly disproportionate to the charges alleged, the Court cannot interfere with the punishment imposed in the disciplinary proceedings but where, a workmen who was working as a Chowkidar left the premises in question unguarded which he was supposed to guard, which resulted in theft and loss caused to the State Exchequer, and according to the respondent-workmen, he was

sleeping at his home, the opinion of the Labour Court that the punishment imposed is disproportionate to the charges alleged, is incorrect hence, the award is liable to be set aside.

4. On the other hand, learned counsel for the respondent-workmen submits that respondent-workmen was not feeling well and he went home to take medicine and after taking medicine he was not in a position to return back to his duty and slept at his home and he was unaware of the fact that the place he was guarding as a Chowkidar, also had cash lying therein, which was ultimately stolen on the said date hence, the opinion of the Labour Court that the punishment imposed was disproportionate to the charges alleged and proved is perfectly valid and legal hence, the writ petition should be dismissed.

5. I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

6. The nature of the duties and the act attributed has to be seen in conjecture so as to find out whether, the act on the part of the employees has caused loss to the State Exchequer and whether, there was major misconduct on the part of the employee. A Chowkidar, is required to safeguard the premises whereas, the respondent-workmen left the premises in question on the pretext of illness and went home and slept without informing anyone about his illness. Due to the fact that the premises were left unguarded, there was a theft and the cash lying in the premises was stolen. That being so, the duty entrusted to the respondent-workmen was not performed as required.

7. Further, the only argument raised on behalf of the workmen-respondent is that the workmen was not well and he was having fever and he

went home to take medicine but due to the effect of medicine, he could not return back to duty. It may be noticed that once, the job of the petitioner was to secure the premises as a Chowkidar, he was required to entrust the duties to someone else before leaving the place unguarded. Nothing has come on record that the respondent-workmen informed anyone about his ill health before leaving the duty.

8. Further, the conduct of the respondent-workmen is also to be seen. Before the fact finding enquiry, the plea taken by the workmen was that he was not well and he left for home to take medicine but could not return back to the duty due to his illness whereas, during the departmental inquiry, the respondent-workmen took a plea that he was sleeping in the room in the same premises, which was found to be incorrect.

9. The inconsistency in the statement of the respondent-workmen shows that he was trying to improve on his statement during the disciplinary proceedings hence, the Labour Court was not within its jurisdiction to hold that the punishment imposed was disproportionate to the charges alleged and proved against the respondent-employee.

10. Further, as per the settled principle of law settled by the Hon'ble Supreme Court of India, the Court can only interfere in case, the punishment imposed is shockingly disproportionate to the charges alleged against the employee concerned. In the present case, the respondent-workmen was working as a Chowkidar but he left the premises unattended due to which the theft occurred and there was loss caused to the State Exchequer.

11. In the facts and circumstances where the duty entrusted upon the respondent-workmen was not taken seriously and he had left the place due to which, the respondent suffered loss, it cannot be said that the punishment of dismissal imposed upon the respondent-workman in the departmental inquiry was shockingly disproportionate to the charges alleged. The order passed by the Labour Court so as to hold that the punishment of dismissal, in the facts and circumstances of the present case, was disproportionate to the charges alleged and proved, is incorrect and perverse to the evidence and facts, which have come on record hence, the same cannot be sustained.

12. Keeping in view the above, the award of the Labour Court is set aside.

13. The present petition is allowed in above terms.

14. Pending application, if any, also stands disposed of.

28-01-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO