2025:PHHC:069641-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA-730-2022 (O&M)
Date of decision: 28.04.2025

Kirpal Singh

.....Appellant

Versus

Presiding Officer, Industrial Tribunal, Amritsar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Dheeraj Mahajan, Advocate,
for the appellant(s).

Ms. Arundhati Kulshreshtha, AAG, Punjab.

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SUDHIR SINGH J.

CM-1741-LPA-2022

For the reasons given in the application, the same is allowed. Delay of 72 days in re-filing the appeal is condoned.

Main case (O&M)

The challenge in the instant intra Court appeal is to the order dated 12.05.2021 passed by the learned Single Judge of this Court, whereby writ petition (CWP-3347-2018) filed by the appellant, was dismissed.

2. It may be noticed that before the learned Single Judge, the appellant had laid challenge to the award dated

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08.11.2017 passed by the Industrial Tribunal, Amritsar (for short 'the Labour Court'), whereby the punishment of dismissal inflicted upon him was converted into his compulsory retirement.

3. As per the facts on record, appellant-Kirpal Singh was appointed with the respondent-bank on 17.07.1978 as a Peon. He was charge-sheeted on 29.10.2010, but pending inquiry, he was reinstated on 28.06.2011. On 10.01.2012, the inquiry report was submitted indicating that the appellant could not be directly held responsible for the embezzlement. On 16.10.2012, a show cause notice was issued to him proposing the punishment of dismissal from the service. The appellant submitted reply to the same, but vide order dated 01.07.2013, he was dismissed from service. The appellant raised an industrial dispute and the Labour Court had answered the reference partly in favour of the appellant vide award dated 08.11.2017, converting the punishment of dismissal into the compulsory retirement. A further direction was issued to the respondent-bank to make payment of entire retiral benefits as per Rules, to the appellant. The aforesaid award was challenged by the appellant before the learned Single Judge by filing a writ petition (CWP-3347-2018), which as noticed above, has been dismissed vide impugned order passed by the learned Single Judge.

4. Learned counsel appearing for the appellant has vehemently argued that the Enquiry Officer, in his report, had

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exonerated the appellant as regards the main charge of fraud inasmuch as, it was found that the appellant could not be held responsible for the fraud committed. It is further argued that the punishing authority had passed dismissal order without recording any reason regarding disagreement with the inquiry report, which is in utter violation of the settled law, but both the learned Labour Court and the learned Single Judge did not take into consideration the said legal aspect of the matter. Reliance has been placed upon the judgments in ***Punjab National Bank vs. Kunj Behari Misra,*** 1998 (3) SCT 833; ***S.B.I. vs. Arvind K. Shukla,*** 2001 (2) SCT 776; ***Yoginath D. Bagde vs. State of Maharashtra,*** 1999 (5) SLR 248; ***Lav Nigam vs. Chairman, MD, ITI Ltd. & Anr.,*** 2007 (3) SCT 179 and ***UOI and others vs. Amar Bahadur Singh,*** 2017 (4) RSJ 314.

5. It is further argued that the learned Labour Court had based its finding on the fact that there was destruction/misplacement of the record, but the fact remained that no such charge was framed against the appellant and hence, the punishment inflicted upon him cannot be sustained. It is further argued that as a matter of fact, the Labour Court ought to have allowed the reference in toto.

6. We have heard learned counsel for the appellant and have also gone through the records of the case, including the impugned order(s).

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7. The facts regarding appointment of the appellant and him having served the department for a period of 35 years are not disputed. The only question that requires to be considered by this Court in the present appeal is whether the finding of the Labour Court as upheld by the learned Single Judge as regards the compulsory retirement of the appellant, require any interference.

8. Though the learned counsel for the appellant has argued that the punishing authority ought to have recorded reasons while disagreeing with the findings recorded by the Inquiry Officer, but the fact remains that it was established in the enquiry proceedings that there was destruction/misplacement of the relevant records of the bank for the period in question. Similarly, as regards the other co-workmen, it was found that they had remained negligent in their duties during the relevant period. It was under these circumstances that the Labour Court, while exercising its jurisdiction under Section 11-A of the Industrial Disputes Act, 1947, had reduced the punishment of dismissal inflicted upon the appellant to be the one of compulsory retirement. The authorities relied upon by the learned counsel for the appellant are on the question, where the punishing authority took a different view than the Inquiry Officer. There is no doubt regarding the settled law on the point that whenever the punishing authority has to differ with the Inquiry report, it has to record reasons for that. However, in the given facts and

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circumstances of the case, where it was established during the enquiry proceedings that there was destruction/misplacement of the record and the other co-workmen had been negligent in discharge of their duties, we find that the punishment inflicted by the punishing authority was rightly found to be harsh by the Labour Court and accordingly, it was reduced to the compulsory retirement. It is not a case, where there was no role played by the appellant in the alleged incident leading to the initiation of departmental proceedings against them. The argument of the learned counsel for the appellant that once, he had been exonerated of the main charge of fraudulent act(s), he could not have been held liable for the destruction/misplacement of the record, particularly when there is no charge framed against him in this regard, is not tenable.

9. The view taken by the Labour Court as upheld by the learned Single Judge, cannot be said to be illegal or perverse, particularly when, while allowing the reference in part, the factum of long service of the appellant had been duly taken into consideration. With the compulsory retirement of the appellant and other co-workmen, they had been held entitled to all the retiral benefits and the benefits of other service elements and necessary directions, in this regard, have also been issued to the respondent-bank.

10. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.

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11. Pending application(s), if any, shall also stand disposed of.

(SUDHIR SINGH)
JUDGE

(ALOK JAIN)
JUDGE

28.04.2025
Ajay Prasher

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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