



CWP-19713-1998 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

CWP-19713-1998 (O&M)
Date of Decision :01.04.2025

Rup Chand

...Petitioner

Versus

The State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashok Gupta, Advocate for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

Ms. Nidhi, Advocate for Mr. R.S. Chahar, Advocate
for respondent No.3-Municipal Committee.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to award dated 20.03.1997 (Annexure P/3) passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak by which, the claim of the petitioner-workman that he was working since 1971 and his services have wrongly been terminated on 28.08.1987 by the respondent No.3, has been rejected by the Labour Court.

2. Learned counsel for the petitioner-workman submits that initially when a reference was raised by the petitioner-workman, a finding was recorded by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak vide award dated 20.09.1994 (Annexure P/2) that enquiry



proceedings were not held in a manner required.

3. Learned counsel for the petitioner-workman further submits that mere furnishing of enquiry report thereafter and passing an order dated 28.08.1987 (Annexure P/1) of termination, will not suffice the issue and the petitioner-workman should have been reinstated in service by recording the finding that enquiry proceedings were held in a manner violating the rules governing the said issue.

4. Learned counsel appearing for the respondent No.3 submits that once, a show cause notice was issued to the petitioner-workman and he filed the reply after completion of disciplinary proceedings and keeping in view the totality of the circumstances award dated 28.08.1987 (Annexure P/1), was passed by the competent authority terminating the services of the petitioner-workman, which was held to be perfectly valid hence, the writ petition filed by the petitioner-workman may kindly be dismissed.

5. Against the said argument of the learned counsel for respondent No.3, learned counsel for the petitioner-workman submits that punishment of dismissal from service is disproportionate to the charges alleged and proved against the petitioner-workman and hence, the impugned award dated 28.08.1987 (Annexure P/1) is liable to be set aside.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. Before proceeding further, it may be noticed that petitioner-workman was working on a Class-IV post of Sweeper and was the President of the Worker's Union. Further, the allegations were that officers of the respondent No.3-Municipal Committee were manhandled, which



charge was proved against the petitioner-workman. Once, the said charge has been proved against the petitioner-workman and the enquiry proceedings were held to be valid after serving the show cause notice to the petitioner-workman, nothing has been pointed out as to how, the finding recording by the Tribunal is perverse to the facts and evidence, which has come on record.

8. Further, in the award dated 20.09.1994 (Annexure P/2), it was held that the enquiry report was not given to the petitioner-workman before passing the order, which report was subsequently given and the said fact was taken into consideration which fact is clear from para-13 of award dated 20.02.1997 (Annexure P/3) and ultimately, the finding has been recorded that enquiry has been conducted in a manner required. Once, the irregularity stood regularized, it cannot be said that the said proceedings will be treated as bad for all intent and purposes, even for deciding the issue. The enquiry was not held to be illegal but was held to be irregular only, which irregularity stood cured after serving the copy of enquiry report upon the petitioner-workman.

9. Learned counsel for the petitioner-workman has argued that the punishment imposed upon the petitioner-workman is disproportionate to the charges alleged and proved against the petitioner-workman.

10. It may be noticed that allegations against the petitioner-workman is of abusing the superior and manhandling them. Said allegations have been proved. It cannot be said that abusing and manhandling of the superior is not a gross misconduct, which can lead to termination of service. In case, the said findings are recorded that manhandling or abusing of

**CWP-19713-1998 (O&M)****-4-**

superior is not a gross misconduct to invite punishment of termination of service, it will lead to indiscipline amongst the employees, which is not conducive for the institution to run smoothly. The discipline is must for all including the employees and the petitioner-workman has violated the said principle of discipline by abusing and manhandling the seniors hence, it cannot be said that punishment imposed upon the petitioner-workman was disproportionate to the charges alleged and proved against the petitioner-workman.

11. Even otherwise, as per the settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No.219-2023 titled as, Union of India and others vs. Const. Sunil Kumar, decided on 19.01.2023,** a punishment can only be modified by the Court in case, the same is shockingly disproportionate to the charges alleged and proved. Relevant paragraphs of the judgment are as under:-

6.2 Even otherwise, the Division Bench of the High Court has materially erred in interfering with the order of penalty of dismissal passed on proved charges and misconduct of indiscipline and insubordination and giving threats to the superior of dire consequences on the ground that the same is disproportionate to the gravity of the wrong. In the case of Surinder Kumar (supra) while considering the power of judicial review of the High Court in interfering with the punishment of dismissal, it is observed and held by this Court after considering the earlier decision in the case of [Union of India Vs. R.K. Sharma](#); (2001) 9 SCC 592 that in exercise of powers of judicial review interfering with the punishment of dismissal on the ground that it was disproportionate, the punishment should not be merely disproportionate but should be strikingly disproportionate. As observed and held that only in an extreme case, where on



the face of it there is perversity or irrationality, there can be judicial review under [Article 226](#) or 227 or under [Article 32](#) of the Constitution.

6.3 Applying the law [laid down](#) by this Court in the aforesaid decision(s) to the facts of the case on hand, it cannot be said that the punishment of dismissal can be said to be strikingly disproportionate warranting the interference of the High Court in exercise of powers under [Article 226](#) of the Constitution of India. In the facts and circumstances of the case and on the charges and misconduct of indiscipline and insubordination proved, the CRPF being a disciplined force, the order of penalty of dismissal was justified and it cannot be said to be disproportionate and/or strikingly disproportionate to the gravity of the wrong. Under the circumstances also, the Division Bench of the High Court has committed a very serious error in interfering with the order of penalty of dismissal imposed and ordering reinstatement of the respondent. 6.4 At this stage, it is required to be observed that even while holding that the punishment/penalty of dismissal disproportionate to the gravity of the wrong, thereafter, no further punishment/penalty is imposed by the Division Bench of the High Court except denial of back wages. As per the settled position of law, even in a case where the punishment is found to be disproportionate to the misconduct committed and proved the matter is to be remitted to the disciplinary authority for imposing appropriate punishment/penalty which as such is the prerogative of the disciplinary authority. On this ground also, the impugned judgment and order passed by the Division Bench of the High Court is unsustainable.”

12. From the bare perusal of the above, it is clear that mere disproportionate punishment cannot be made a ground to set aside the same and the punishment should be shocking disproportionate to the charges

**CWP-19713-1998 (O&M)****-6-**

alleged. In the present case, the punishment of termination of service upon the petitioner-workman, who abused and manhandled his superior cannot be treated as shockingly disproportionate.

13. No other argument has been raised.

14. Keeping in view the facts and circumstances recorded hereinbefore, the present petition is dismissed.

15. Civil miscellaneous application pending, if any, is also disposed of.

April 01, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No