

CWP No. 3745 of 1997 (O&M) and
CWP No. 1459 of 1998 (O&M)

2025:PHHC:052312



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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 214)**

(1)

**CWP No. 3745 of 1997 (O&M)
Date of Decision : 24.04.2025**

State of Haryana

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar and
another**

...Respondents

(2)

CWP No. 1459 of 1998 (O&M)

Ram Avtar

...Petitioner

Versus

The State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Saurabh Girdhar, Assistant Advocate General, Haryana
for the petitioner in CWP-3745-1997 and
for the respondents in CWP-1459-1998.

Mr. Sanchit Punia, Advocate for the petitioner
in CWP-1459-1998 and
for respondent No. 2 in CWP-3745-1997.

Harsimran Singh Sethi J. (Oral)

1. By this common order, two writ petitions, the details of which
have been given in the heading, are being decided as both these petitions
involve the same question of law on similar facts.



2. For the sake of convenience, the facts are being taken from CWP No. 3745 of 1997.

3. In the present petition, the Award dated 25.03.1996 (Annexure P-10) is under challenge at the hands of Management by which the termination of the services of the Workman on the basis of the embezzlement, has been held to be bad by the Labour Court on the ground that no evidence was produced by the Management despite the fact that the Workman was proceeded ex-parte even during the departmental proceedings hence, the domestic enquiry cannot be held to be just and fair.

4. Learned counsel for the petitioner-Management argues that after the charge-sheet was issued to the Workman, the Workman had given a reply dated 28.01.1991, a copy of which has been appended as Annexure P-5, wherein, with regard to the various 23 embezzlements, he had conceded his guilt and requested that lenient view be taken hence, once the guilt was admitted by the Workman and the Workman did not associate himself in the enquiry proceedings, recording of a finding by the Tribunal that the domestic enquiry was bad so as to grant the benefit of reinstatement to the Workman is incorrect.

5. Learned counsel for the petitioner-Management submits that after being given the opportunity, the report was produced before the Labour Court to show that the Workman had conceded his guilt and ultimately, the Labour Court held that though the termination of the services of the Workman will be treated as valid but only from the date the Award was passed and not from the date the said termination order was passed by the



punishing authority, which is incorrect as, once the order terminating the services has been supported before the Labour Court by producing the evidence, the same has to relate back to the date when the said termination order was passed and the Tribunal has no jurisdiction to hold that the same will be treated valid prospectively from the date of the Award hence, the Award dated 05.08.1996 (Annexure P-11) is liable to be set-aside.

6. The said Award dated 05.08.1996 (Annexure P-11) is also under challenge by the Workman holding that once the enquiry proceedings were held to be bad, the employee was entitled for reinstatement with all consequential benefits.

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

8. In the present petition, the Labour Court has passed two Awards. First Award is dated 25.03.1996 (Annexure P-10) holding that the departmental enquiry was not conducted in a free and fair manner and thereafter, while exercising the power under Section 11-A of the Industrial Disputes Act, 1947 (hereinafter referred to as '1947 Act'), the Management was given opportunity to support the order terminating the services of the Workman which they successfully proved before the Labour Court but, the Labour Court by a subsequent Award held that as the allegations have been proved against the Workman before the Tribunal, the termination of the services of the employee will be from the date of the Awards and not from the date when the termination order was passed by the punishing authority on 29.1.1991 (Annexure P-6).



9. It may be noticed that in order to find out as to whether the allegations alleged against an employee are correct, the departmental enquiry is to be held and the employee is to be given due opportunity to defend himself/herself but the said procedure is not required to be followed where, the allegations are conceded by the Workman. Once, by Annexure P-5 the Workman had conceded his guilt with the prayer that lenient view be taken by imposing a punishment other than the one of dismissal, there was no further requirement of holding the disciplinary proceedings. The Tribunal has failed to appreciate the said factual position while passing the Award dated 25.03.1996 (Annexure P-10).

10. Further, even while the opportunity was given to the Management to prove the allegations, they successfully proved the allegations which fact has been recorded by the Labour Court while passing the Award dated 05.08.1996 (Annexure P-11). Once, the allegations were proved and the order terminating the services dated 29.01.1991 was supported with the evidence, the said order needs to be upheld rather than holding that the termination of the services will be prospective from the date the allegations have been proved before the Tribunal. The said decision/view taken by the Tribunal is incorrect and cannot be supported. Once, the impugned order was supported by extending due evidence before the Court, the said order of termination dated 29.01.1991 should have been allowed to operate qua the Workman.

11. The argument of the Workman against the Award dated 05.08.1996 (Annexure P-11) is that allegations have wrongly been proved



against him hence, he should have been reinstated in the service once, the departmental enquiry was held to be bad. It may be noticed that once the Workman has accepted his guilt with regard to 23 allegations of embezzlement which is clear from his letter dated 28.01.1991 (Annexure P-5), he cannot be allowed to contest the said allegations by changing his stand. The said letter has gone un-rebutted. That being so, the allegations alleged against the Workman were not required to be enquired into once the same were conceded before the authorities concerned.

12. Learned counsel appearing on behalf of the Workman submits that though certain embezzlements were conceded but the same were only conceded after the enquiry. The said argument of the learned counsel for the Workman cannot be accepted. Once, the Workman has admitted his guilt that he had embezzled the amount 23 times, the Labour Court should have taken the said letter into consideration while passing the impugned Awards.

13. Keeping in view the totality of the circumstances, the impugned Awards dated 25.03.1996 (Annexure P-10) and 05.08.1996 (Annexure P-11) are set-aside. The order passed by the authorities terminating the services of the Workman dated 29.01.1991 is upheld.

14. Consequently, the writ petition being CWP-3745-1997 is allowed and writ petition being CWP-1459-1998 filed by the Workman is dismissed.

15. Pending miscellaneous application, if any, also stands disposed of.

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16. A photocopy of this order be placed on the file of connected cases.

April 24, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No