

217

Date of Decision : 30-07-2025

1.

NARESH CHAND SHARMA

.....Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GURGAON & ANR

.....Respondent(s)

AND

2.

RAJESH SINGH SIKARWAR

.....Petitioner

VERSUS

**PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, GURGAON & ANR**

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Virender Kumar, Advocate
for the petitioner(s)-Workman.

Mr. Ashwani Talwar, Advocate with
Mr. Nikhil Sehrawat, Advocate,
Mr. Deepak Goyat, Advocate and
Ms. Pratiksha Sharma, Advocate
for respondent No.2.

HARSIMRAN SINGH SETHI, J. (Oral)

1.

in the heading, involve common question of law in the context of common set of facts and thus they are being decided by a common order.

2. Learned counsel for the petitioner(s)-Workman submits that the petitioners were working with the respondent-establishment and their services have been terminated without giving any opportunity of hearing or complying with the provisions of the Industrial Disputes Act, 1947 (for short “1947 Act”) and the said fact has not been appreciated by the Tribunal in a correct perspective while rejecting the claim of reinstatement along with full backwages of the petitioner(s)-Workman while passing the impugned awards dated 30.08.2013 in CWP No.15812 of 2014 and award dated 29.05.2013 (Annexure P-7) in CWP No.15789 of 2014, which is causing prejudice.

3. Learned counsel for the petitioner(s)-Workman argues that the Tribunal has held that the petitioner(s)-Workman have abandoned the job hence, as there was no termination of the services of the petitioner(s)-Workman at the hands of the respondent-establishment, the claim of reinstatement along with full backwages and that the services of the petitioner(s)-Workman have been terminated in violation of the provisions of the 1947 Act, has wrongly been rejected by the Tribunal while passing the impugned award.

4. Learned counsel for the petitioner(s)-Workman submits that when there is an abandonment of job, there has to be an effort by the respondent-establishment to bring back the petitioner(s)-Workman before declaring that the petitioner(s)-Workman has abandoned the job and in the present case though the respondent-establishment has brought on record

letters which were sent to the petitioner(s)-Workman but the same did not contain the correct name hence, the said letters could not have been relied upon by the Tribunal while passing the impugned award to hold that despite given chance, the petitioner(s)-Workman refused to perform their duties so as to abandon the job.

5. Learned counsel for the petitioner(s)-Workman further submits that the petitioners were active members of the Union hence, the respondent-management has conducted the action of terminating the services against the petitioner(s)-Workman in a vindictive manner hence, the said fact has not been appreciated by the Tribunal while rejecting the claim regarding reinstatement along with full backwages of the petitioner(s)-Workman.

6. Learned counsel for the respondent No.2 submits that two registered posts were sent to both the petitioners so as to resume their services but both the letters were refused to be accepted and the report of the postal authorities depicting refusal at the hands of the petitioner(s)-Workman was brought as an evidence before the Tribunal, which evidence has been correctly appreciated by the Tribunal hence, the findings recorded by the Tribunal are based upon the facts and the material evidences which were brought on record.

7. Learned counsel for the respondent-establishment further submits that in the present case, the petitioner(s)-Workman are claiming that their services have been terminated by the respondent-establishment on 05.03.2003 in CWP No.15812 of 2014 and 11.03.2003 in CWP No.15789 of 2014, which is not correct as the petitioner(s)-Workman stopped performing their duties, a chargesheet dated 27.03.2003 was issued to the petitioner(s)-

Workman in both the petitions and after proving the allegations of abandonment, the action was taken against the petitioner(s)-Workman vide standing order dated 07.05.2003 dismissing the services of the petitioner(s)-Workman on the ground of abandonment of job hence, the Tribunal while passing of the award dated 30.08.2013 in CWP No.15812 of 2014 and 29.05.2013 in CWP No.15789 of 2014 appreciated the issue as per the facts and the material evidences brought on record and the awards dated 30.08.2013 in CWP No.15812 of 2014 and award dated 29.05.2013 (Annexure P-7) in CWP No.15789 of 2014, may kindly be upheld.

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

9. The argument of the learned counsel for the petitioner(s)-Workman is that the services of the petitioner(s)-Workman were terminated on 05.03.2003 in CWP No.15812 of 2014 and 29.05.2013 in CWP No.15789 of 2014 whereas, the findings have been recorded by the Tribunal that it is only after holding the departmental proceedings, vide order dated 07.05.2003 in both the petitions, the services of the petitioners have been terminated on the ground of abandonment of job. Once, there is a specific order, which has been brought on record, which clearly shows that the order has been passed on the basis of the departmental proceedings wherein the allegations of abandonment of job were proved and the action has been taken.

10. The argument of the learned counsel for the petitioner(s)-Workman to show that the order passed by the Tribunal dated 30.08.2013 in CWP No.15812 of 2014 and award dated 29.05.2013 (Annexure P-7) in

CWP No.15789 of 2014 is that grounds are perverse to the facts or the material evidences brought on record as no communication was sent to the petitioner(s)-Workman to resume their duties and the communication so sent, as being claim by the respondent-establishment, were with the wrong name, which has been incorrectly dealt with by the Tribunal while passing the impugned awards.

11 The material evidence has been brought on record that the letters so sent by the respondent-establishment which were refused by the petitioner(s)-Workman. Once, the letter was brought to the notice of the petitioner(s)-Workman and they refused, it cannot be said that there was no communication was sent by the respondent-establishment asking the petitioner(s)-Workman to join back the services before taking departmental action or same was not received by them hence, learned counsel for the petitioner(s)-Workman has not been able to rebut the evidence of the postal authorities, which has been brought on record that the communication so sent to the petitioner(s)-Workman by the respondent-establishment was refused by the petitioner(s)-Workman, which will amount to service of the said letters upon the petitioners hence, the view taken by the Tribunal that the petitioner(s)-Workman had abandoned the job due to which, the disciplinary proceedings were initiated, ultimately led to the passing of the order dated 07.05.2003 terminating the services of the petitioner(s)-Workman, is valid.

12. Learned counsel for the petitioner(s)-Workman further argues that the petitioner(s)-Workman were working as the office-bearers of the Union and vindictive action has been taken.

13. It may be noticed that the vindictive action can only taken by making an allegation that the petitioner(s)-Workman were not performing the duties but here, the allegation is of abandonment of job and nothing evident has come on record as to why, the petitioners were not working after 05.03.2025 in CWP No.15812 of 2014 and 11.03.2003 in CWP No.15789 of 2014 despite being called back for duty hence, the argument which has been raised that the respondent-establishment is biased against the petitioner(s)-Workman stands on no legs.

14. No other argument is raised.

15. Keeping in view the above, the petitioner(s)-Workman have failed to prove that the awards dated 30.08.2013 in CWP No.15812 of 2014 and award dated 29.05.2013 (Annexure P-7) in CWP No.15789 of 2014 passed by the Tribunal are either perverse to the facts or the material evidences brought on record hence, no ground is made out for any interference by this Court in the facts and circumstances of the present set of cases.

16. Present set of petitions stand dismissed.

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

18. Photocopy of this order be placed on the file of other connected case.

30-07-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO