



CWP-18790-2013

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-18790-2013**Reserved on:23.09.2025****Date of Pronouncement:10.12.2025****Date of uploading: 11.12.2025****DESHBIR SINGH****-PETITIONER****V/S****PRESIDING OFFICER, LABOUR COURT-III, FARIDABAD AND
ANOTHER****-RESPONDENTS****CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Ravi Kant Sharma, Advocate and
Mr. Himanshu Sharma, Advocate,
for the petitioner.

Contesting respondent no.2 proceeded against *ex parte*.

KULDEEP TIWARI, J.

1. Through the instant petition cast under Article 226/227 of the Constitution of India, the petitioner-workman challenges the enquiry dated 20.12.2006 (Annexure P-7), as also the order dated 17.12.2012 (Annexure P-15), wherethrough, the preliminary issue, as to “whether the enquiry conducted by management was not fair and proper?, was decided against him by learned Industrial Tribunal (respondent no.1), holding the enquiry proceedings to be legally sustainable. The petitioner further, seeks quashing of an Award dated 10.01.2013 (Annexure P-16), whereby, the reference was answered against him.



2. The principal argument, as raised before this Court, in an attempt to throw challenge to aforesaid order as well as Award (*supra*), as made by learned counsel for the petitioner-workman, is that the enquiry officer deliberately fixed the place of enquiry at Okhla-Delhi at 5:00 P.M., despite the fact that the petitioner-workman was working at village Dudholla, Tehsil and District Palwal (Faridabad). While referring to the letter dated 28.09.2006 (Annexure P-5) and 09.11.2006 (Annexure P-6), he submits that a specific request was made by the petitioner-workman to the enquiry officer, either to change the place of enquiry, or in alternate, pay him Rs.2,500/- per hearing so that he could meet all the expenses, as well as the fee of an advocate to attend the enquiry proceedings at the place of enquiry at Delhi. However, the said request of the petitioner-workman was not acceded to. Therefore, he submits that the enquiry was conducted from the very inception with a biased and predetermined mind, and that too at the behest of respondent no.2-management.

3. The next argument, as raised by learned counsel for the petitioner, is that the petitioner-workman's request for supplying list of documents and witnesses relied upon by respondent no.2-management were not supplied to him despite repeated requests. Further, on account of not providing any adequate financial assistance, the petitioner-workman, was unable to join the enquiry proceedings, and consequently, he was proceeded against *ex parte*.

4. Since no one appeared on behalf of the management before



the learned Tribunal concerned, to defend the case, therefore, only the enquiry officer stepped into the witness box, and tendered all the documents including the enquiry report. Therefore, in absence of any supporting evidence, the learned Tribunal concerned, ought to have decided the preliminary issue in favour of the petitioner-workman.

5. Finally, he submits that the enquiry officer was not an employee of respondent no.2-management, rather, he was an advocate who conducted the enquiry, who generally appears on behalf of the management to defend their cases before various courts, therefore, he was not an independent enquiry officer.

6. The respondent no.2-management, on an earlier occasion was represented by an advocate, before this Court, however, it was proceed *ex parte* vide order dated 03.05.2024.

7. This Court has considered the submissions, as made by learned counsel for the petitioner-workman, and with his able assistance, has perused the impugned orders as well as Award.

8. Before proceeding further, and to check the legality of the Award (*supra*), lets have glimpse upon the facts, *qua* which there is no wrangle amongst the parties concerned:-

- i. The petitioner-workman, was engaged by respondent no.2-management as a Security Guard on 15.10.1996, as he agreed to sell them his land, subject to the condition that one member from his family would be given



employment in the factory of the said management. The last drawn wages of the petitioner-workman, was Rs.2,530/- per month.

ii. The petitioner-workman, worked with respondent no.2-management upto 26.03.2007. His services were terminated on account of misconduct after a thorough enquiry.

iii. The allegations against the petitioner-workman, were that, on dated 29.07.2006, he indulged in hooliganism and manhandling an employee of respondent no.2-management. He did not report for his duties on 30.07.2006, and consequently, on 31.07.2006, he was placed under suspension by respondent no.2-management.

iv. Finally, a chargesheet was served upon the petitioner-work on 07.08.2006, which was duly received by him, and thereupon, he filed his reply thereto, on 10.08.2006.

v. Thereafter, Mr. Kamaljit Singh, a local advocate was appointed as an enquiry officer by respondent no.2-management and the place on enquiry was fixed at Okhla, Delhi. The petitioner-workman, was well informed about the appointment of aforesaid enquiry officer as well as the place of enquiry.



vi. Initially, the petitioner-workman, joined the enquiry proceedings, and after some time, he submitted a letter dated 28.09.2006 and 09.11.2006 (Annexure P-5 and P-6 respectively), to the enquiry officer, either to change the place of enquiry or to pay expenses of Rs.2,500/- per hearing, so that he could meet the expenses to be incurred for visiting of his advocate to place of enquiry at Okhla-Delhi.

vii. The aforesaid request of the petitioner-workman was not acceded to. Therefore, he stopped joining the enquiry proceedings. Resultantly, he was proceeded against *ex parte*.

viii. Finally, the enquiry report was submitted on 20.12.2006 (Annexure P-7), where through, the charges framed against the petitioner-workman, were found to be proved, and he was terminated from his service by respondent no.2-management on 26.03.2007.

9. Now the issue is, as to whether, the enquiry proceedings suffers from any illegality. In order to have better understanding of the said issue, let's have a glimpse upon the charges of misconduct, as levelled against the petitioner-workman, which is extracted hereinafter:-

“On 29-7-2006 at about 1.20 p.m. you entered the company premises unauthorisedly; You were in drunken state and committed the following gross misconducts.



1. On 29-7-2006 you were on weekly off; at around 1:20 p.m. you along with co-worker Mr Ravinder Kumar Kuntal (Employee No.00132) forcibly entered the premises in an unauthorized way by opening gate without the permission and knowledge of the security personnel.
2. There after entering the premises with sticks, both of you started shouting and using abusive language to your superiors and manhandled physically Mr. Vinod Kumar Barua (Sr Executive-Technical) who was working at the back side of the factory.
3. You have also manhandled the security person Mr. Dhan Singh (Security Guard) who was on duty on time within the factory premises, Where he tried to intervene as you and Mr. Ravinder Kumar Kuntal were in a drunken state and manhandling Mr. Vinod Kumar Barua.
4. It has been found that you have damaged the vehicle No.KA-03EF-496 owned by Mr. Vinod Kumar Barua which was parked in company premises.
5. It is found that you did not report for duties from 30th July 2006 to 2nd August 2006 without leave/informing your superiors.

Your various acts on 29-7-2006 are major misconduct and in contravention of the relevant provisions of the Model Standing Orders which are applicable to the company, which invites disciplinary action against you.

You are hereby required to submit your Reply to this charge sheet within 72 hours from the receipt thereof and if you fail to submit your reply within the stipulated time, it shall be assumed that you accept facts given above and appropriate disciplinary action will be initiated against you.”

10. It is a case, where the petitioner-workman, was duly supplied with the chargesheet, and he submitted his replied thereto. At the initial stage, the petitioner joined the enquiry proceedings, but later on, raised a demand to allow him to engage an advocate, which was duly permitted. However, thereafter, vide letters dated letter 28.09.2006 and 09.11.2006 (Annexure P-5 and P-6 respectively), he made another request either to



change the place of enquiry, or to pay expenses Rs.2,500/- per hearing, enabling him to pay the advocate, to appear on his behalf, on each hearing.

11. Though the request of the petitioner-workman, was accepted and sum of Rs.40 for each hearing was granted, however, his request to shift the place of enquiry to Dudholla factory, Palwal (Faridabad), was rejected. Thereupon, the petitioner-workman, stopped joining the enquiry proceedings.

12. The petitioner-workman, when entered into the witness box as WW-1, categorically, admitted that he did not participate in the enquiry proceedings, as his aforesaid requests were not accepted. The relevant part of his cross-examination, is extracted hereinafter:-

“....It is correct that my letter was considered on 18-10-2006 by the enquiry officer which is Ex.M-4 and I have received the copy of the enquiry proceedings Ex.M-5. It is correct that enquiry proceedings were conducted in Hindi which I can read. I did not participated in the enquiry proceedings as my requests were not accepted.”

13. It is a case where the petitioner-workman, voluntarily, opted not to join the enquiry proceedings. Rather, it seem that he was, instead preparing a defense to be raised subsequently before the learned Tribunal while challenging the enquiry proceedings.

14. First and foremost, respondent no.2-management, was not under an obligation to pay the expenses to the petitioner-workman, which was to be incurred to join the enquiry proceedings, particularly, when he was getting the subsistence allowances, as admissible to him. However, if



the petitioner-workman, opted not join the enquiry proceedings, later he cannot take a refuge and raise a plea of infraction of natural justice, equity and fair play.

15. The petitioner-workman, has not come up with any evidence before the learned Tribunal concerned, to refute the charges as levelled against him. Instead, he remained indulged in creating legal issue of non-compliance of principle of natural justice and fair play. However, such a plea is not available to him, as he voluntarily chose not to join the enquiry proceedings on the pretext of self-created grounds.

16. Learned counsel for the petitioner-workman, is also unable to point out, as to how the enquiry officer, has caused any prejudice against him, considering that the said officer was entirely independent. Furthermore, he failed to produce any evidence, showing that his requisitioned any documents, either from Respondent No. 2-management, or the enquiry officer, which were denied to him and caused any prejudice to him.

17. This Court has gone through the order dated 17.12.2012, and finds no perversity requiring this Court to interfere therein, while exercising its supervisory jurisdiction. Further, the Award dated 10.01.2013, has been passed considering the gravity of charges levelled against the petitioner-workman, which were duly proved in the enquiry proceedings, which does not suffer from any illegality or perversity.

18. In view of the above discussion, both the aforesaid verdicts



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are hereby, **upheld**, and the instant petition, is hereby, **dismissed**, being devoid of any merit.

19. All pending application(s), if any, also stand **disposed** of accordingly.

December 10, 2025
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No