



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

CWP-15092-2016

Date of decision: 12.08.2025

Sukhbir Singh

....Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court-II Faridabad
and another

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Surinder Dagar, Advocate,
for the petitioner.

Mr. Ajay K. Yadav, Advocate, for
Mr. R.N.Lohan, Advocate, for respondent No.2.

KULDEEP TIWARI, J. (Oral)

1. The petitioner-workman has approached this Court through the instant writ petition, as cast under Article 226 and 227 of the Constitution of India, challenging the order dated 29.08.2012 (Annexure P-4), vide which, the preliminary issue, “whether the domestic enquiry conducted by the management is fair and proper”, was decided against him, and award dated 01.10.2015 (Annexure P-7), whereby, the reference was answered against him, and his claim petition was dismissed.

Factual Matrix

2. The petitioner-workman was initially appointed as Cane-Clerk (Seasonal) with Palwal Co-operative Sugar Mills Ltd.-respondent No.2 on 31.01.1985. Subsequently, he was promoted as Centre-In-Charge (Seasonal) and he joined the duty as such on 14.02.1992. However, he was charge-sheeted on 17.01.1995, for having caused



shortage of sugarcane valuing Rs.1,54,818/-, for the period 1984-85 to 1990-91. Consequently, an enquiry into the matter was conducted, in terms of the Certified Standing Orders of the Mill in Para Nos. 21(2), 21(4) and 21(8). The petitioner-workman was afforded numerous opportunities to join the enquiry proceedings, but he choose not to appear and finally, the Enquiry Officer submitted his report on 03.12.1998, having found the charges against the petitioner proved. Whereupon, the petitioner was served with repeated show cause notices dated 27.11.1999, 07.12.1999 and 03.05.2000, for personal hearing, but again, neither he submitted any response thereto, nor caused appearance before the competent authority. Resultantly, respondent No.2-Management passed an order dated 30.01.2001, thereby, dismissing the petitioner-workman from service. Fetching grievance, the petitioner had challenged the said order by raising an industrial dispute. Whereupon, the competent authority sent a reference to the Industrial Tribunal-cum-Labour Court-II, Faridabad, to adjudicate on the issue, ***“whether services of the workman namely Sukhbir Singh terminated illegally? If so, what relief he is entitled to?”***

3. Proceeding with the matter, the Tribunal framed three issues, out of which, the preliminary issue, i.e. with regard to legality of the domestic enquiry, was answered against him, vide order dated 29.08.2012. Similarly, other issues were also decided against petitioner, and the claim petition was dismissed, vide award dated 05.09.2012. Feeling aggrieved, said order and award were assailed by the petitioner in a writ petition before this Court, i.e. CWP-25077-2012. The writ petition was allowed, thereby remanding the matter to the learned Tribunal, to



decide afresh, vide order dated 27.07.2015. The relevant part of the order is extracted hereinafter:-

“Thus, the matter needs to be re-adjudicated. That being so, the petition is allowed. Award dated 05.09.2012 (Annexure P5) is set aside. The matter is remitted to the Industrial Tribunal-cum-Labour Court-II, Faridabad, to be decided, afresh. As the petitioner has also assailed the order dated 29.08.2012 (Annexure P4), vide which the issue as regards the fairness of domestic inquiry was decided against him, counsel for the parties are ad idem that it would be open to the petitioner to assail the said order, if necessitated, post decision of the Labour Court, on merits. Parties are directed to appear before the Labour Court, Faridabad, on 24.08.2015. Records of the Labour Court be returned.”

Submissions by learned counsel for the contesting parties:

4. Learned counsel for petitioner submits that no opportunity was ever given to the petitioner to establish his innocence, as he was proceeded against *ex parte*, by the Enquiry Officer. Moreover, punishment awarded to him is apparently, disproportionate to the charges leveled against the petitioner. Therefore, the order of termination dated 30.01.2001, required interference. However, Ld. Tribunal has not considered the claim of the petitioner and evidence in its right perspective. In such circumstances, impugned orders/awards are preposterous, and thus, are liable to be set aside.

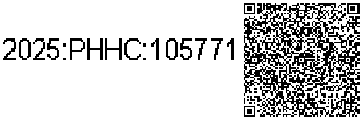
5. *Per contra*, learned counsel for the respondent-Management submits that the petitioner was not only granted repeated opportunities to join enquiry proceedings, which remained pending for about three years,



but also, post conclusion thereof, three notices were served upon him to submit his response. However, he opted to remain conveniently silent. Therefore, there was no infraction of principles of natural justice, and the writ petition merits dismissal.

Analysis

6. What reflects from the combined reading of the impugned order dated 29.08.2012 and award dated 05.09.2012, is that the Enquiry Officer conducted enquiry, as per the Certified Standing Orders of the Mill in Para Nos.21(2), 21(4) and 21(8), and petitioner was duly served with a series of notices to join enquiry. In this regard, Management proved on record the copies of telegram as Ex.M20 to M22, that were sent to petitioner, and Mark-A to Mark-F, were the copies postal receipts thereof. Further, the Management proved on record Ex.M23 and Ex.M24, which were the letters received from petitioner, to substantiate that he was, indeed, given adequate opportunity to join the enquiry proceedings. However, he opted not to join the enquiry proceedings, at any stage, which left Enquiry Officer with no other option, but to proceed petitioner against *ex parte*. Accordingly, he submitted enquiry report on 03.12.1998. Not just that, even post submission of enquiry report, petitioner was afforded repeated personal hearings by the Management vide show cause notices dated 27.11.1999, 07.12.1999 and 03.05.2000, however, he was hell-bent not to appear before the authorities. In such circumstances, it is crystal clear that petitioner voluntarily remained a fence-sitter all through, while watching the departmental proceedings. However, when the enquiry proceedings culminated into his dismissal from service, he raised the issue of infraction of natural justice. In this



view of the matter, this Court, in no uncertain terms, is of the opinion that petitioner, who had not opted to join the enquiry proceedings and remained a fence sitter, cannot raise hue and cry of infraction of principles of natural justice. Rather, it is the case, where petitioner himself had not availed repeated opportunities granted to him.

7. At this juncture, this Court is reminded of the fact that though an FIR was registered against the petitioner, but he earned acquittal therein. However, this would not advance the case of the petitioner, at all. To say so, reason is obvious, that acquittal in a criminal case, by itself, cannot be a ground to set aside the order of punishment passed by the disciplinary authority. It does not automatically result in vitiating the disciplinary proceedings. Needless to assert that standard of proof, required to establish the charges against the accused in a criminal trial, and misconduct against the delinquent employee in the disciplinary proceedings are altogether different. Thus, considering the seriousness of the allegations levelled against petitioner, this Court has no hesitation to conclude that the punishment, petitioner was saddled with, is not at all disproportionate.

8. In summa, the instant writ petition is **dismissed**.

(KULDEEP TIWARI)
JUDGE

12.08.2025
Ak Sharma

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