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AT CHANDIGARH

**CM-1176-CWP-2025 in/and
CWP-3366-2012 (O&M)
Date of Decision : January 30, 2025**

Date of Decision : January 30, 2025

.. Petitioner

Versus

.. Respondents

CWP-22044-2011

CWP-22044-2011

.. Petitioners

Versus

.. Respondents

CWP-23711-2011

CWP-23711-2011

.. Petitioner

Versus

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Mr. Ranjit Singh Ghuman, Advocate, and
Ms. Shashi Ghuman, Advocate, for the petitioner
in CWP-3366-2012.

Mr. G.S. Bal, Senior Advocate, with
Mr. Laxman Choudhary, Advocate and
Ms. Gurpreet Kaur, Advocate, for the petitioner
in CWP-22044-2011.

Mr. G.P.S Bal, Advocate, with
Mr. Shubham Makkar, Advocate and
Mr. Sahil Gamal, Advocate, for the petitioner
in CWP-23711-2011.



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None for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-1176-CWP-2025

As prayed for, the application is allowed.

CM-4667-CWP-2015

As prayed for, the application is allowed.

Annexures P-11 and P-12 are taken on record.

CWP-3366-2012 (O&M) & connected cases

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

2. In the present bunch of petitions, the challenge is to the Award passed by the Labour Court dated 04.08.2011 by which, the challenge to the order of termination qua the petitioner(s) has been declined.

3. Learned counsel for the petitioner(s) argues that in the present case, despite the fact that no incident happened but as the Management wanted to throw the petitioners out of service, false allegations were alleged and proved against them so as to terminate the services of the petitioner(s), which fact has been ignored by the Labour Court while declining the prayer of the petitioner(s) for setting aside the order terminating their services at the hands of the respondents.

4. Learned senior counsel for the petitioner(s) argues that in the present case, Janak Raj, who was the Watchman and was present at the incident spot did not support the allegations alleged by Baljinder Singh that he was manhandled by the petitioner(s) and beaten hence, the allegation that

any incident of beating of Baljinder Singh happened at the hands of the



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petitioner(s) was wrongly been alleged and proved by the Enquiry Officer during the departmental proceedings and the statement of Janak Raj has been ignored not only by Enquiry Officer but even by the Labour Court also while rejecting the claim of the petitioner(s) qua setting aside the termination order.

5. Learned counsel appearing on behalf of the petitioner(s) further submits that there is no evidence on record to prove the allegation of misconduct on the part of petitioner(s) and as it is a case of no evidence, the allegation proved by the Enquiry Officer of misconduct leading to the termination of the services of the petitioner(s) was bad and the argument of the learned counsel for the petitioner(s) qua no evidence, has not been dealt with by the Labour Court in a correct perspective so as to reject their claim for setting aside the termination orders.

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

7. The petitioner(s) were proceeded against by the respondent-institute for misconduct and a departmental enquiry was held against the petitioner(s) wherein, the allegations alleged against them were partly proved and punishment of dismissal from service was imposed and thereafter, the departmental appeal was preferred by the petitioner(s), which was also rejected and ultimately, the said grievance was raised before the Labour Court so as to challenge the order of termination.

8. The Labour Court after appreciating the evidence, which has come on record, held that once the services of the petitioner (s) were terminated after holding the enquiry into the misconduct and same was



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proved, no reason arises to set aside the said order of termination and the claim of the petitioner(s) was rejected vide the impugned Award dated 04.08.2011 (Annexure P-10). The said Award has been challenged by the petitioner(s) in the present petitions.

9. The argument which has been raised by the learned counsel for the petitioner(s) is that the present was the case of no evidence so as to hold the petitioner(s) guilty of the allegations and to terminate their services.

10. It may be noticed that the enquiry report has been given by the Enquiry Officer to prove the allegations alleged against the petitioner(s). In the enquiry report, all the factual aspects have been taken into account by the Enquiry Officer including the evidence, which has come on record including the statements of certain employees in favour of the petitioner(s) qua the alleged incident. Thereafter, the charges have been partly proved. The argument that there was no evidence is being raised on the ground that the security guard Janak Raj, who was the gatekeeper, has clearly stated that no such incident of manhandling Baljinder Singh at the hands of the petitioner(s) took place hence, as there is no other witness to the said assault on Baljinder Singh at the hands of the petitioner(s), the charges have been proved without there being any evidence.

11. The said argument of the learned counsel for the petitioner(s) cannot be accepted firstly on the ground that this Court is not to re-evaluate the evidence which has come on record to find out as to whether there was sufficient evidence on record to prove the allegations or not. The said duty was casted upon the Enquiry Officer, who has proved the said allegations and the enquiry report has been accepted by the punishing authority so as to



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terminate the services of the petitioner(s). The Appellate Authority also considered all the facts and upheld the decision of the punishing authority terminating the services of the petitioner(s) and ultimately, the Labour Court after appreciating all the facts, rejected the claim of the petitioner(s) qua setting aside the termination of the services of the petitioner(s). This Court is not sitting in an appeal over the decision of the authorities concerned hence, this Court cannot re-appreciate the fact so as to arrive at another conclusion then the one arrive at by the authorities concerned, which has already been upheld by the Tribunal in the impugned Award.

12. Further, no evidence case is being projected only on the ground that Janak Raj-Watchman had denied that there was any incident of misconduct on the part of the petitioner(s) so as to assault another colleague Baljinder Singh.

13. It may be noticed that all other facts qua the said incident have also come on record which have been noticed not only by the Enquiry Officer but also by the Labour Court. All the officers after the complaint was filed by Baljinder Singh, assembled at the gate of the factory premises so as to enquire the same and they have also stated that Baljinder Singh had suffered injuries. Once, Baljinder Singh had suffered injuries and the same was reported to the officer by him, who arrived at the spot on the same day, it cannot be said that the charges were alleged in futile without there being any actual incident.

14. Not only this, subsequent to the allegations, the petitioner(s) were suspended. Thereafter, a compromise was effected between the

Union and the Management to the effect that it was given in writing by the



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petitioner(s) that they will adhere to the discipline and will not repeat the same mistake again. Once, the said compromise was effected, this clearly shows that an incident happened as reported by Baljinder Singh and the Enquiry Officer, after considering all the facts in the totality, proved the charges partly.

15. With regard to the argument of the learned counsel for the petitioner(s) that in case, any such incident as alleged would have happened, Janak Raj would have reported the incident to the authorities, it may be noticed that the petitioner(s) were the office bearers of the Union of which Janak Raj was also a member. This fact cannot be ignored to appreciate as to why, according to the statement of Janak Raj, nothing happened as being alleged by Baljinder Singh qua his assault at the hands of the petitioner(s).

16. Keeping in view the totality of the circumstances, once a colleague has been assaulted and that too in the factory premises, the misconduct is such that the action has been taken by the management and that too after holding a disciplinary proceedings wherein the misconduct was proved hence, the finding recorded by the Labour Court that the services of the petitioner(s) have been dispensed with by the management as per rules, needs no interference.

17. The last argument which has been raised by the learned counsel for the petitioner(s) is that they had long service to their credit which should have been kept in mind so as to impose proportionate punishment to the misconduct alleged and proved.

18. It may be noticed that the punishment is to be awarded by the employer/punishing authority. The Courts only have the jurisdiction to



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interfere in case, the punishment imposed is shockingly disproportionate to the charges alleged and proved. In the present case, it cannot be said that the punishment of dismissal from service on account of assault on another employee is such that the dismissal from service cannot be awarded or the same can be treated shockingly disproportionate to the charges alleged and proved hence, the said argument of the learned counsel for the petitioner(s) cannot be accepted.

19. No other argument was raised.

20. Keeping in view the above, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

21. Accordingly, the writ petitions are dismissed.

22. Civil miscellaneous application pending if any, also stands disposed of.

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

January 30, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No