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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP-3389-2014 (O&M)****Date of Decision : 16-07-2025****DEVI LAL****.....Petitioner****VERSUS****PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM- LABOUR
COURT-I, FARIDABAD & ANR.****.....Respondent(s)****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Shiv Kumar, Advocate for the petitioner.

Mr. A.S Randhawa, Advocate and
Ms.Tarranum Madan, Advocate
for respondent No.2.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the order dated 24.02.2010, copy of which has been appended as Annexure P-6 by which, a finding has been recorded that the departmental enquiry conducted against the petitioner with regard to the allegations alleged in the chargesheet dated 14.03.2006 and the Rules of Natural Justice have been complied with.

2. Further, the challenge is to award is dated 22.07.2010, copy of which has been appended as Annexure P-7 by which, the termination of the services of the petitioner was held justified keeping in view the allegations alleged and proved.

3. Learned counsel for the petitioner argues that the complaint, which was the basis of the chargesheet dated 14.03.2006, was never supplied

to him hence, any departmental enquiry conducted against the petitioner with regard to the allegations alleged without supplying the complaint, the same will violate the Rules of Natural Justice so as to discard such enquiry report, which has been held in violation of the principle of natural justice and consequent order of punishment has been set aside.

4. Learned counsel for the petitioner further argues that the petitioner was not given assistance of the associate during the departmental proceedings which also violates the Rules of Natural Justice, which facts have been ignored by the Labour Court while passing the order dated 24.02.2010 (Annexure P-6) so as to hold that the enquiry proceedings which were held against the petitioner were valid.

5. Learned counsel for the petitioner further argues that the punishment of dismissal imposed upon the petitioner was disproportionate to the charges alleged and proved, which fact has been ignored by the Tribunal while passing the impugned award hence, the impugned order and award are liable to be set aside.

6. Learned counsel for the respondent on the other hand submits that the departmental enquiry was conducted as per the rules and regulations governing the service wherein, keeping in view the facts and evidence brought on record and after giving due opportunity of hearing to the petitioner to cross-examine the witnesses, the allegations have been proved and on the basis of the allegations proved, the punishment of dismissal has been imposed, which has been minutely examined by the Labour Court and it has been held that there was no discrepancy either in holding the departmental proceedings or while imposing the punishment of termination

keeping the allegations alleged and proved hence, the assertions of the petitioner that the Labour Court ignored certain facts, is incorrect and the present writ petition may kindly be dismissed.

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

8. The first argument raised by the learned counsel for the petitioner to challenge the award dated 24.02.2010 (Annexure P-6) by which, the enquiry proceedings were declared to be valid, is that the copy of the complaint was not given to the petitioner.

9. It may be noticed that the complainant himself appeared before the enquiry officer and reiterated his complaint and the petitioner cross-examined the said complainant. Once, the complainant has appeared and has been cross-examined by the petitioner himself, the petitioner cannot be allowed to say that the non-supply of the complaint is causing prejudice to him due to which the enquiry proceedings be declared invalid.

10. The Rules of Natural Justice are to be seen keeping in view the facts of the present case and once, the complainant appeared and reiterated his complaint, and he was also cross-examined by the petitioner himself and the said cross-examination has been taken into consideration by the Enquiry Officer, the petitioner cannot be allowed to say that there was violation of Rules of Natural Justice while conducting the enquiry.

11. The next argument raised by the learned counsel for the petitioner is that he was not given the assistance of one Hoob Lal Yadav. hence, the Rules of Natural Justice were not observed.

12. It may be noticed that the said argument has already been dealt with in Para No.3 of the award dated 24.02.2010 (Annexure P-6) wherein, a specific finding has been given that the petitioner contended that he wants to contest his own case himself rather than being provided any assistance.

13. Once, the said finding has come on record, learned counsel for the petitioner cannot say that the assistance of Mr. Hoob Lal Yadav was necessary to observe the Rules of Natural Justice. The said finding of the Labour Court as the said fact has gone unrebutted at the hands of the learned counsel for the petitioner.

14. The last argument which has been raised by the petitioner is qua the award dated 22.07.2010 (Annexure P-7) that even if it is assumed for the sake of argument that the allegations alleged against the petitioner stood proved after holding a due enquiry but the punishment of termination was disproportionate to the charges alleged and proved.

15. It may be noticed that the jurisdiction of the Court qua the quantum of the punishment is limited. As per the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.219 titled "Union of India and ors. Vs. Const. Sunil Kumar***, decided on 19.01.2023, it is only in case the punishment imposed is shockingly disproportionate to the charges alleged and proved against the delinquent employee, the Court should interfere with the decision of the authorities. Relevant Paras of the judgment are as under:

“6.2. Even otherwise, the Division Bench of the High Court has materially erred in interfering with the order of penalty of dismissal passed on proved charges and misconduct of indiscipline and insubordination and giving threats to the superior of dire consequences on the ground that the same is

disproportionate to the gravity of the wrong. In the case of Surinder Kumar (supra) while considering the power of 11 judicial review of the High Court in interfering with the punishment of dismissal, it is observed and held by this Court after considering the earlier decision in the case of Union of India Vs. R.K. Sharma; (2001) 9 SCC 592 that in exercise of powers of judicial review interfering with the punishment of dismissal on the ground that it was disproportionate, the punishment should not be merely disproportionate but should be strikingly disproportionate. As observed and held that only in an extreme case, where on the face of it there is perversity or irrationality, there can be judicial review under Article 226 or 227 or under Article 32 of the Constitution.

6.3 Applying the law laid down by this Court in the aforesaid decision(s) to the facts of the case on hand, it cannot be said that the punishment of dismissal can be said to be strikingly disproportionate warranting the interference of the High Court in exercise of powers under Article 226 of the Constitution of India. In the facts and circumstances of the case and on the charges and misconduct of indiscipline and insubordination proved, the CRPF being a 12 disciplined force, the order of penalty of dismissal was justified and it cannot be said to be disproportionate and/or strikingly disproportionate to the gravity of the wrong. Under the circumstances also, the Division Bench of the High Court has committed a very serious error in interfering with the order of penalty of dismissal imposed and ordering reinstatement of the respondent.”

16. In the present case, there is allegation of insubordination and the allegation of stopping the total production, which fact proved allegations are good enough to treat the same as major misconduct so as to invite the punishment of dismissal from service.

17. 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.
18. Present petition stands dismissed.
19. Pending application, if any, also stands disposed of.

16-07-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO