

**CWP-8128-2014 (O&M)****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(215)****CWP-8128-2014 (O&M)****Date of Decision : January 31, 2025****PRTC, Patiala through Managing Director and others .. Petitioners****Versus****Presiding Officer, Industrial Tribunal, Patiala and another
.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI****Present: Mr. Anil Kumar Sharma, Advocate, for the petitioners.****Mr. Raj Kaushik, Advocate and
Mr. Harsh Vardhan, Advocate, for respondent No.2.****HARSIMRAN SINGH SETHI J. (ORAL)**

1. In the present writ petition, the grievance of the petitioners is that despite the faulty service record of respondent-workman available with the Industrial Tribunal, still, the punishment of dismissal from service imposed upon the respondent-workman by General Manager, PRTC vide order No.447 dated 22.08.2002 after due departmental enquiry initiated vide order No.1444 dated 21.02.2002 wherein also he was held liable for his acts, has been held by the Tribunal on 01.08.2013 (Annexure P-1) to be disproportionate to the misconduct on the part of the workman, thus he was reinstated in service with continuity but without back wages and the absence period was to be treated as leave without pay.



2. Learned counsel for the petitioner submits that the Tribunal has exceeded its jurisdiction to modify the punishment.

3. Learned counsel appearing on behalf of the respondent-employee submits that keeping in view the fact that the allegation for which the respondent-workman was proceeded against related to 07 days absence i.e. from 27.12.2001 to 04.01.2002 for not depositing the collected amount which the respondent-workman collected as a Conductor hence, by exercising power under Section 11-A of the Industrial Disputes Act, 1947, the discretion exercised by the then Labour Court now, Industrial Tribunal, Patiala so as to modify the punishment of dismissal with reinstatement and continuity but without back wages, is perfectly valid and legal.

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

5. It is a conceded fact that the impugned order of dismissal by General Manager, PRTC was passed keeping in view two aspects; first being the 7 days absence of respondent-workman from his duty and second being the amount collected by him in his service which he had retained during the said period. The allegation against the respondent-workman was with regard to the period of 7 days wherein, as mentioned before, he did not come for his duty, neither did he return the amount collected, the imposition of punishment of dismissal keeping in view the fact that the respondent-workman had 17 years service (08.04.1985 – 21.08.2002) to his credit, the modification of the punishment done by the Industrial Tribunal, Patiala while exercising power under Section 11-A of the Industrial Disputes Act, 1947 is by ignoring all the facts of the present case.



6. Keeping in view the fact that there were other punishments imposed upon the employee during the service career, details of which were mentioned candidly on record of the Labour Court, the commensurate punishment should have been given by the Tribunal in case the punishment of dismissal awarded by the punishing authority was not acceptable to the Tribunal because of it being disproportionate to the charges alleged and proved. As of now, the respondent-employee has already attained the age of superannuation, hence, keeping in view the totality of the circumstances including the allegation which was proved against the respondent-workman and his total record, the punishment of compulsory retirement would have been most appropriate.

7. Though in an ideal scenario, this Court would have sent the matter back to the punishing authority i.e. Tribunal to decide the fresh punishment but respondent-workman has already retired and he is not in service anymore, thus, sending the said employee before the authorities concerned, coupled with the fact that the matter is being agitated since for the last two decades, the litigation should come to an end at this stage rather than forcing the Department or the workman as the case may be to a further round of litigation starting from the scratch again.

8. Keeping in view the above, the respondent-workman shall be treated as having been compulsorily retired instead of being dismissed from service from the date of passing of the order of dismissal.

9. At this stage, learned counsel for the petitioners submits that keeping in view the fact that the Award was stayed, the wages have been paid to the employee under Section 17-B of the Industrial Disputes Act,

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1947 which has not been disputed by the learned counsel appearing on behalf of respondent-workman.

10. After treating the petitioner as having been compulsory retired from the date he was dismissed from service i.e. 22.08.2002, the respondent-workman shall be entitled for pensionary benefits as are admissible to a retired employee keeping in view the service which he has already rendered. He will also be entitled for monthly pension starting from the said date along with arrears upto now. The amount which the petitioners have paid to the respondent-employee as wages under Section 17-B of 1947 Act shall be adjusted in the arrears which are found admissible to the respondent-employee under this order. Let the order be complied with within a period of two months from the date of receipt of copy of this order.

11. The present writ petition is disposed of in above terms.

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

January 31, 2025*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No