

dismissed from service and that too without giving any fresh show cause notice.

4. Learned counsel for the petitioners further submits that once, the departmental inquiry was held and the charges were proved against the respondent-Workmen, the imposition of punishment of dismissal from service upon the respondent No.1-Workmen was valid, which fact has been ignored by the Tribunal.

5. The respondent No.1-Workmen appears in person and submits that charges levelled against him were mentioned in Paragraph-3 of the award that he was absent from duty for one day and he could not get the coolers painted and that the generator set was working without the mobile oil, which caused the loss to the school. The respondent No.1-Workmen submits that after conducting the inquiry, the proposal for imposing punishment of stoppage of two increments without cumulative effect whereas, he has been dismissed from service, which punishment is not only disproportionate to the charges alleged and proved but also contrary to the show cause notice wherein only proposed punishment was stoppage of two increments without cumulative effect, which is a minor punishment and further submits that after evaluating the total facts and evidence brought on record, the award has been passed, which may kindly be upheld.

6. I have heard learned counsel for the petitioners and respondent in person and have gone through the records of the present case with their able assistance.

7. It is a conceded fact that the allegations which were alleged against the respondent No.1-Workmen were not of embezzlement but of one day's absence and for not getting the coolers painted despite various

directions given by the school authorities. The said allegations though proved, were considered by the disciplinary authority and it was proposed to impose the punishment of two increments without cumulative effect, which is a minor punishment.

8. Once, a show cause notice was issued with a proposal for imposing minor punishment, the respondents could not have enhanced the punishment so as to dismiss the respondent No.1-Workmen from service. The imposition of punishment more than the one proposed in the show cause notice could not have been done unless and until the said show cause notice is withdrawn and a fresh show cause notice proposing the higher penalty is issued to the delinquent employee.

9. Once, the view of the respondent(s)-Workmen was sought for particular punishment, which punishment was minor, the maximum punishment of dismissal could not have been imposed keeping in view the charges alleged and proved.

10. The findings recorded by the Labour Court are perfectly valid and legal and are in consonance not only with the facts and circumstances of the present case but as well as the law on the issue that the punishment more than the proposed cannot be imposed without giving chance to the charged officer to submit his opinion qua imposition of higher punishment.

11. At this stage, learned counsel for the petitioners argues that the show causes notice was issued by the Secretary of the School and after receiving the reply from the respondent No.1-Workmen qua the said show cause notice, the matter was put up before the competent authority i.e. the Chairman/Deputy Commissioner of Rohtak, who decided upon the quantum of punishment and decided to dismiss the respondent-Workmen.

12. It may be noticed that even if the Chairman was of the view that the proposed punishment was not commensurate with the charges alleged and proved they should have served a fresh show cause notice with the proposed higher punishment so as to give a chance to the respondent No.1-Workmen to submit his objections to the proposed higher punishment sought to be imposed upon him. Concededly, the said steps was not followed by the petitioners and unilaterally, a higher punishment than the one proposed in the show cause notice was imposed. Not only higher but extreme punishment of dismissal from service was imposed even though show cause notice related to a minor punishment was issued.

13. Keeping in view the settled principle of law that the High Court can only interfere in the impugned award dated 24.10.2017 (Annexure P-15) in case, the award is perverse to the facts and the evidences placed on the record and in the present case, no such perversity has been pointed out by the learned counsel for the petitioners so as to set aside the impugned award.

14. Even otherwise, as of now, the respondent No.1-Workmen has been reinstated in service and he is working. Once, the respondent No.1-Workmen has been reinstated in service and is working and the award has been complied with as far as the directions given, no interference is called for by this Court in the facts and circumstances of the present case and the impugned award is upheld.

15. Now, the issue which needs adjudication is that vide the impugned award dated 24.10.2017 (Annexure P-15), direction was given to the petitioner to reinstate the respondent No.1-Workmen. The petitioners were under obligation to reinstate the respondent No.1-Workmen soon but, it is an admitted fact the respondent No.1-Workmen was reinstated in service

on 20.02.2023 i.e. after a period of more than 5 ½ years of passing of the impugned award.

16. That being so, this Court has to take into consideration that the respondent No.1-Workmen should not suffer at the hands of the petitioners due to non-implementation of the impugned award.

17. Keeping in view the fact that the impugned award has been upheld, the petitioners are directed to release the salary of the respondent No.1-Workmen, which he is entitled for on the post on which he was reinstated as per the impugned award starting from 01.11.2017 onwards till the date of reinstatement i.e. 20.02.2023 and the arrears of the salary for the period mentioned above be released to the respondent No.1-Workmen within a period of ***eight weeks***.

18. Further, the salary of the respondent No.1-Workmen not only upto the date of reinstatement was withheld but and the salary starting from February, 2023 till March, 2025 has also not been paid despite reinstatement and the same was retained by the petitioners, the same has only been paid today in Court. No valid reason has come for retaining the salary for the said period.

19. Keeping in view of the above factual position, on the total amount of salary for which the respondent No.1-Workmen was entitled for starting from 01.11.2017 onwards till today, the respondent No.1-Workmen will also be entitled for interest @ 6% per annum, which should also be paid to the respondent No.1-Workmen within a period of ***eight weeks*** from the receipt of copy of this order.

20. Not only this, keeping in view the impugned award, the respondent No.1-Workmen was to be granted 50% of the backwages in the

October, 2017 which has been paid today in Court i.e. after a period of more than 7 ½ years. The said amount has also been retained by the petitioners without any valid justification despite the fact that there is no interim order in their favour. Hence, even on the amount of 50% of backwages which had not been paid to the respondent No.1-Workmen despite order of the competent court, which was in operation, the said amount of 50% will also carry interest @ 6% per annum from 01.11.2017 onwards till the date of payment i.e. today and the same be also paid to the respondent No.1-Workmen within a period of ***eight weeks*** from the receipt of copy of this order.

21. At this stage, learned counsel for the petitioners submits that in case, the Rules were not followed at the time when the order dismissing the respondent No.1-Workmen was passed in the year 2006 hence, liberty be given to the petitioners to pass a fresh order in accordance with the law by applying the principle of Natural Justice as well as the Rules governing the service for holding the disciplinary proceedings.

22. The said request is genuine. In case, the petitioners wants to continue with the disciplinary proceedings which were initiated in the year 2003, the same can be done but any order to be passed on the said proceedings will be prospective in nature and not retrospective.

23. Hence, the present petition stands dismissed with liberty as mentioned hereinbefore.

24. Pending application, if any, also stands disposed of.

21-04-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO