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

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CWP-23737-2025

Date of Decision: 19.08.2025

**M/S BABA BANDA SINGH BAHADUR ENGINEERING
COLLEGE**

-PETITIONER

V/S

**PRESIDING OFFICER INDUSTRIAL TRIBUNAL AND
ANOTHER**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Jatinder Kumar, Advocate and
Mr. Shailendra Sharma, Advocate,
for the petitioner-college management.

KULDEEP TIWARI, J.

1. The reference was answered in favour of respondent no.2-workman vide Award dated 28.03.2025 (Annexure P-5), passed by the Industrial Tribunal, SAS Nagar, Mohali (respondent no.1), which has been put to challenge by the petitioner-college management through the instant petition cast under Article 226/227 of the Constitution of India, wherethrough, respondent no.2-workman was, not only, found entitled for reinstatement with continuity of service, but also, held entitled for 50% back wages from the date of termination of his services.

2. Learned counsel for the petitioner-college management assails the impugned Award on the ground that the Tribunal has

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overlooked the documents on record, wherein, it was clear that before terminating the services of respondent no.2-workman, a notice was given to him, and even a circular/notice dated 13.10.2014, was issued, whereby all the employees, who proceeded on strike were called upon to resume their duties, and in pursuant to the circular/notice (*supra*), many employees/workmen reported on their duty, and were taken back in duty, but some of the workmen failed to resume their duty despite the receipt of notice, including respondent no.2. Hence, it is a case of abandonment of job on the part of respondent no.2-workman, as such, his services were rightly terminated by the petitioner-college management.

3. He further argues that respondent No. 2-workman, along with others, proceeded on strike, which was entirely illegal. Before going on strike, it was their duty to serve advance notice to the petitioner-college management through the Labour Welfare Officer. However, neither Respondent No. 2 nor the Union served any such notice and still proceeded with the strike, making their action totally unlawful.

4. He further, while relying upon Section 22 of the Industrial Disputes Act, submits that it prohibits strikes and lockouts without prior notice to the management. The aforesaid provision mandates that no person employed in a public utility service shall proceed on strike without giving the employer a notice of strike at least six weeks prior to the commencement of the strike.

5. Before this Court embark upon the submissions, as made by

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learned counsel for the petitioner-college management, lets have a glimpse over the admitted facts, which are as under:-

- i. The respondent no.2-workman, was working as sweeper with petitioner-college management since 01.04.2004. His services were terminated on 20.09.2016, and at the time of termination of his services, he was drawing a salary of Rs.7,450 per month.
- ii. It is not under dispute that respondent no.2-workman, before termination of his services has continuously worked with the petitioner-college management for about 12 years and 06 months.
- iii. The services of respondent no.2-workman, were terminated by the petitioner-college management, therefore, he filed a statement of claim before the competent authority, which was subsequently, referred to the Tribunal concerned by way of reference, which was answered, in favour of respondent no.2-workman vide impugned Award.
- iv. There is an existence of a master-servant relationship between the petitioner-college management and respondent no.2-workman. Respondent no.2-workman was working for the last more than 12 years.

Now the issue arises as to whether, the services of respondent no.2-workman, were terminated legally or not?

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6. This Court has examined the submissions, as made by learned counsel for the petitioner, as well as the impugned order.

7. The only submission made by the learned counsel for the petitioner-college management is that, the circular/notice was issued to the Union leader, wherethrough, the workmen were asked to join their duties, and this may be considered as a show cause notice

8. The petitioner-college management has further laid emphasis, that despite the circular/notice (*supra*), respondent no.2-workman, failed to join his duty, therefore, it tantamount to abandonment of job, therefore, the petitioner-college management has rightly passed the order of termination of his services.

9. This Court does not find any substance in the submissions, as made by learned counsel for the petitioner-college management, as it nowhere comes out on record that respondent no.2-workman, has ever been put to show cause notice, before terminating from service. The mere issuance of a circular/notice or intimation to the Union leader to resume duties does not absolve the petitioner-college management of their obligation to serve a prior show cause notice or to follow the due process of law before terminating the services of Respondent No. 2.

10. Even otherwise, respondent no. 2-workman, along with other union members, was on strike seeking regularization of his services and wages as per the District Collector's rates. This strike was never declared illegal, and there is nothing on record to suggest that the respondent no. 2

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was involved in any anti-management activity and disturbed the working atmosphere of the college (petitioner).

11. This is a case of non-compliance of requisite procedure, before passing the termination order. This Court finds that there is a total infraction of principle of natural justice, which cannot be cured, now through explanation given by the petitioner-management. Even otherwise, this Court has examined the impugned Award, and is of the view that the learned Tribunal, has rightly answered the reference in favour of the respondent no.2-workman. The relevant part of the the impugned Award is extracted hereinafter:-

“11. On the other hand, Ld. A/R for the respondent has argued that the college has terminated the services of claimant after following proper procedure. It is contended that the claimant was under the influence of his group leader, Parveen Kumar who was called for clarification but he refused to receive the letter every time. It is further contended that the college principal had also issued a common circular in favour of all employees who were on strike to join back the duty and many of the employees joined their duty but the applicant had ignored the notice dated 13-10-2016 and that the claimant had been involved in the anti management activities and disturbed the college atmosphere.

12. Having considered the arguments the admitted facts are the existence of relationship of employer and employee between the workman and management and there is further no dispute with regard to wages and tenure of service. It emerges from the perusal of the file that the claimant had participated in strike for regularization of class IV employees and for granted the wages at DC rate. However there is nothing on the file to show that the said strike was illegal or that his this act was disturbing the atmosphere of college. It is also not on file that separate notice was ever issued upon the claimant asking him to join the duty. The only assertion by the respondent is that several letters were issued to the group leader Parveen Kumar who failed to comply with the letters. There is nothing on the file to show that proper procedure was followed to take initiative against the claimant, whether the claimant was served with show cause notice or warning vide separate notice. The management has failed to bring forth any element that the claimant was involved in any anti-management activities which had disrupted the atmosphere of management.”

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12. This Court is totally in consonance with the above observations, and is of the view that no interference is required in the impugned Award. Accordingly, the instant petition is, **dismissed**.

August 19, 2025
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No