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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-941-2026 (O&M)

Date of Decision: 07.05.2026

Punjab and Sind Bank

....Appellant(s)

Versus

**Presiding Officer, Central Government Industrial Tribunal-cum-
Labour Court-1 and another**

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI
HON'BLE MRS. JUSTICE AMARJOT BHATTI**

Present: Mr. Gaurav Goel, Advocate and
Mr. Samarth Sagar, Advocate
for the appellant.

JASGURPREET SINGH PURI, J. (Oral)**CM-2341-LPA-2026**

The present application has been filed for condonation of delay
of 12 days in filing the present appeal.

For the reasons recorded in the application, the same is allowed.

The delay of 12 days in filing the present appeal is hereby condoned.

Main case

1. The present is an intra-Court appeal filed assailing the judgment passed by the learned Single Judge dated 18.02.2026 in CWP No. 37773 of 2025. The aforesaid writ petition was filed assailing the award passed by the learned Presiding Officer, Industrial Tribunal, Chandigarh dated 02.07.2025 (Annexure P-16), whereby the reference was answered in favour of the



respondent No.2/workman and he was declared to be entitled for reinstatement with continuity of service till superannuation with full wages. The age of attaining superannuation of respondent No.2/workman was in the year 2016.

2. By way of the aforesaid impugned judgment, the aforesaid writ petition was dismissed and the award was upheld. However, it was modified to a limited extent of reducing the full back wages to 75% of back wages. Respondent No.2/workman had filed a claim statement, which was treated as a reference under Section 10(1) (C) of the Industrial Disputes Act, 1947. It was the claim of respondent No.2/workman that he had joined the services of the appellant/Management in the year 1978 as an Apprentice Trainee and thereafter was regularized w.e.f. 17.03.1979 on the post of Clerk-cum-Cashier. Thereafter, in the year 2004, respondent No.2 was posted as Special Assistant in one of the branches of the appellant-Bank at Patiala. However, on 31.08.2006, he was placed under suspension and afterwards he was served with a show cause notice. Later on, he was also charge-sheeted on 18.12.2006. An inquiry was conducted and thereafter an order of punishment was imposed upon him by way of compulsory retirement on 12.02.2008.

3. When the reference was made to the learned Industrial Tribunal, an order was passed by the learned Industrial Tribunal on 27.09.2018 (Annexure P-14) observing that as per the record, during the course of departmental inquiry proceedings, respondent No.2/workman was not supplied with a list of witnesses as well as the list of relied upon documents, which were mentioned in the charge-sheet which has caused prejudice to respondent No.2/workman because he was not aware at the time



of the inquiry as to which were the relevant documents which are likely to be used against him because no such documents or list of witnesses were supplied to him which was therefore violative of the principles of natural justice and fatal to the inquiry. Considering the aforesaid factual position, an order was passed by the learned Industrial Tribunal on the aforesaid date i.e. 27.09.2018 by observing that the domestic inquiry conducted by the appellant /Management against respondent No.2/workman was unfair and in violation of the principles of natural justice, Thereafter, the learned Industrial Tribunal proceeded by observing and granting permission to the appellant/management to prove the charges against the workman by bringing fresh evidence or record before the learned Industrial Tribunal itself. This order was passed by granting permission for adducing fresh evidence by the appellant/Management before the learned Industrial Tribunal itself in view of the judgment of Hon'ble Supreme Court in ***Karnataka State Road Transport Corporation vs. Smt.Laxmidevamma, 2001(5) SCC 433*** whereby on the basis of the permission granted by the learned Industrial Tribunal, the documents can be produced at the later stage as well to prove the charges against the workman on merits and while referring to the aforesaid judgment, the learned Industrial Tribunal granted such permission that the aforesaid can be produced even at this stage.

4. In the light of the aforesaid permission being granted by the learned Industrial Tribunal, an affidavit was filed by one Jatinder Singh, Manager Zonal Office, Patiala who was an officer of the appellant-Bank vide Annexure P-15 dated 23.07.2024, in which he merely deposed that the record is already available on the Court record in evidence and whatever is available on the record may be read as evidence, which would



be sufficient to corroborate and substantiate the charges against respondent No.2. The aforesaid affidavit which was filed and has been annexed with the present appeal as Annexure P-15 is reproduced as under:-

*“BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL CUM LABOUR COURT AT CHANDIGARH*

IDR NO.55/2009

Lovelesh Kumar V/s Punjab and Sind Bank

*“Evidence of Management by way of affidavit of
Sh. Jatinder Singh, Manager, Zonal Office
Patiala, Punjab and Sind Bank, Patiala.*

*I, the above named deponent do hereby solemnly affirm and
declare as under:-*

- 1. That the deponent is presently posted as Manager, IR,
Zonal Office Patiala Punjab and Sind Bank and has gone
through with the case file as available and as such is well
conversant with the facts of the present case.*
- 2. That upon issuance of a show cause notice, the applicant/
claimant Sh. Lovelesh Kumar Single was charge-sheeted
vide memo dated 18.12.2006 for the misconduct detailed in
the charge-sheet. Consequent upon issuance of the charge
sheet any inquiry was held in the matter and upon receipt of
inquiry report, the applicant/claimant was awarded
punishment of compulsory retirement with superannuation
benefits vide punishment order dated 12.02.2008.
The appeal filed by the applicant/workman against the said
punishment order was also rejected vide order dated
04.05.2009 passed by the appellate authority.*
- 3. That vide order dated 27.09.2018 this Hon'ble tribunal
however held the enquiry as unfair and in violation of
principles of natural justice granting permission to the
management to prove the charges against the workman.*



4. That accordingly deponent, without prejudice to any rights of the bank reiterate and resubmit the charge-sheet issued against the applicant/claimant along with all the consequential record already available on the court record file in evidence to prove the charges afresh. The said available record on the court record file may be read in evidence on behalf of the management which sufficiently corroborates and substantiate the charges.

5. That the deponent submits that the charges against the applicant/workman are serious in nature and he was rightly punished by the disciplinary authority in accordance with law and prescribed procedure.

6. That in view of the submissions made above and the record available on the court record file, reference in question deserves to be rejected and prayed accordingly.

Patiala

Sd/-

Dated: 23/07/2024

Deponent

Verification:-

Verified that the contents of I above affidavit are true and correct to my knowledge as derived from the official record. No part of it is false and nothing material has been concealed therein.

Place:Patiala

Sd/-

Dated 23/07/2024

Deponent”

5. Thereafter, the learned Industrial Tribunal proceeded in the aforesaid reference and answered the reference in favour of respondent No.2/workman. A proper opportunity was given to both the parties to adduce evidence. Respondent No.2/workman examined witnesses and also proved on record a number of documents, which runs into 187 documents and the same have been incorporated in the order passed by the learned Industrial



Tribunal in para No.6. So far as the appellant/Management is concerned, the only evidence produced by the appellant-Bank was the statement of one Jaswinder Mohan Singh, ex-Manager of the Bank, whereby he verified his signatures on his affidavit dated 21.07.2014. However, the name of the aforesaid witness of the appellant is stated to be Jaswinder Mohan Singh, whereas the aforesaid affidavit which has been reproduced above is stated to be filed by one Jatinder Singh. Learned counsel for the appellant has submitted that the aforesaid Jatinder Singh, who tendered his affidavit in evidence, and Jaswinder Mohan Singh, are two different persons.

6. There was no other evidence or any kind of fresh evidence adduced by the appellant-Bank before the learned Industrial Tribunal despite permission being granted by way of the aforesaid order. Earlier by way of the order dated 27.09.2018, the learned Industrial Tribunal had specifically observed that the inquiry was unfair and in violation of the principles of natural justice because of non-supply of documents and list of witnesses. The same position remained at the time when the proceedings were held before the learned Industrial Tribunal. Despite opportunity and permission being granted to the appellant, no evidence was led before the learned Industrial Tribunal and in this regard, specific observations were made by the learned Industrial Tribunal that no evidence has been led by the Management, even as directed by the Tribunal. It was also observed that no fresh evidence has been adduced as per the direction and opportunity given by the Tribunal to prove the charges and virtually there is nothing on record in support of the allegations made vide charge-sheet against the workman. It was only one affidavit of Jatinder Singh, as reproduced above, which was produced in the form of evidence stating that whatever documents are



available on the file, the same may be read in evidence and in this way, no evidence at all was led by the Management before the learned Industrial Tribunal. Not only this, it was observed by the learned Industrial Tribunal that the aforesaid witness Jaswinder Mohan Singh had admitted that he was neither associated with the inquiry in any manner nor it was conducted under his supervision nor he had worked at the relevant time.

7. In the cross-examination conducted on the witness Jatinder Singh, who had filed the affidavit, he admitted that when inquiry was declared vitiated on 27.09.2018, after that he had not supplied any documents to the workman. He also admitted in his cross-examination that he had no personal knowledge of the present case and he was not associated with the case during the inquiry proceedings and that he was not a charge-sheeted witness. In this way, even the witness who had adduced evidence by his own affidavit admitted in cross-examination that after the inquiry was vitiated by way of the order dated 27.09.2018, no document has been supplied to the workman. The inquiry was declared to be unfair and in violation of the principles of natural justice as per the order dated 27.09.2018 on the ground that no list of witnesses or documents were supplied to respondent No.2/workman and therefore, at no stage any such document or list of witnesses were supplied to respondent No.2/workman. On this basis, the reference was answered in favour of respondent No.2/workman and he was directed to be reinstated with continuity of service till his superannuation with full back wages.

8. Learned counsel appearing on behalf of the appellant submitted that respondent No.2 was charge-sheeted on the basis of various irregularities being committed by him at the time when he was posted as a



Special Assistant at the Branch in the appellant-Bank and since there was also an allegation of financial irregularities, no such relief can be granted to respondent No.2. He also submitted that on the basis of the record, it cannot be disputed that no such list of witnesses or documents were supplied to respondent No.2. He further submitted that the award as well as the judgment passed by the learned Single Judge may be set aside. He also submitted that even otherwise also, the award was passed in the year 2025 and respondent No.2 had attained the age of superannuation in the year 2016 and therefore, no order could have been passed for his reinstatement and continuity of service till his superannuation with full back wages, even on notional basis.

9. We have heard the learned counsel for the appellant.

10. On the basis of the aforesaid facts as stated in the preceding paragraphs, after the learned Industrial Tribunal on 27.09.2018 had passed an order by observing that the inquiry conducted against respondent No.2/workman was unfair and in violation of the principles of natural justice because the list of witnesses and documents were never supplied to him, permission was granted to the appellant/Management to adduce any kind of evidence even before the Tribunal. However, no such evidence of any sort was produced or adduced nor any list of witnesses or documents were supplied to respondent No.2 and this has already been admitted in the cross-examination by the aforesaid Jatinder Singh, who filed an affidavit as reproduced above. The aforesaid order dated 27.09.2018 was not challenged before any Court. The appellant has not attached a copy of the inquiry report.



11. The respondent No.2 was directed to be reinstated with continuity in service and full back wages till the time of his superannuation. When the order of punishment was passed in the year 2008 and he attained the age superannuation in the year 2016 and as per the learned counsel for the appellant, the total period was only eight years for which he was to be given back wages as per the award passed by the learned Industrial Tribunal.

12. When the aforesaid award was assailed by filing a writ petition, the learned Single Judge discussed the aforesaid issue with regard to the inquiry, which was held to be unfair and in violation of the principles of natural justice and thereafter, no evidence being adduced even during the proceedings before the learned Industrial Tribunal held that the award passed was in accordance with law but had only reduced the full back wages to 75% of the back wages. The learned Single Judge had referred to the judgment of Hon'ble Supreme Court in *M/s Hindustan Tin Works Pvt. Ltd. Vs. The Employees of M/s Hindustan Tin Works Pvt. Ltd. and others, AIR 1979 Supreme Court 75*, wherein it was so held that when the workman is ready and willing to work and is kept away therefrom because of any illegal or unlawful act of the employer, then there would not be any justification for not awarding full back wages.

12. Thereafter, Hon'ble Supreme Court in *Deepali Gundu Surwase versus Kranti Junior Adhyapak and others, 2013 (10) SCC 324*, discussed the aforesaid legal proposition. The relevant portion of the aforesaid is reproduced as under:-

“33. The propositions which can be culled out from the aforementioned judgments are:



i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

ii) The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the Court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors.

iii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averment about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.

iv) The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and / or certified standing orders, if any, but holds that the punishment was



disproportionate to the misconduct found proved, then it will have the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then there will be ample justification for award of full back wages.

v) The cases in which the competent Court or Tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the concerned Court or Tribunal will be fully justified in directing payment of fullback wages. In such cases, the superior Courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc., merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The Courts must always be kept in view that in the cases of wrongful / illegal termination of service, the wrongdoer is the employer and sufferer is the employee/workman and there is no justification to give premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages

vi) In a number of cases, the superior Courts have interfered with the award of the primary adjudicatory authority on the premise that finalization of litigation has taken long time ignoring that in majority of cases the parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the



*termination of his service and finality given to the order of reinstatement. The Courts should bear in mind that in most of these cases, the employer is in an advantageous position vis-à-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer, i.e., the employee or workman, who can ill afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in **Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited** (supra).”*

*vii) The observation made in **J.K. Synthetics Ltd. v. K.P. Agrawal** (supra) that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of three Judge Benches referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of reinstatement of an employee/workman.”*

13. The argument raised by the learned counsel for the appellant that the charge-sheet was pertaining to various irregularities including financial irregularities and therefore, reinstatement and back wages should not have been granted is unsustainable in view of the fact that the inquiry itself was vitiated because of non-supply of list of witnesses and documents and not only this, even despite permission being granted by the learned Industrial Tribunal, no such list of witnesses or documents were ever given to respondent No.2 and therefore, it was purely in violation of the principles of natural justice. The order dated 27.09.2018 was passed after the inquiry was held and thereafter, no document at all was supplied to respondent No.2



and consequently, the inquiry stood vitiated as being in violation of the principles of natural justice.

14. Even otherwise, the learned Single Judge has already reduced the back wages from full back wages to 75%.

15. In view of the aforesaid facts and circumstances, we are of the considered view that there is no ground available with the appellant to seek intervention in the present Letters Patent Appeal and the same is hereby dismissed, being devoid of any merit, with costs of Rs.10,000/-, which shall be deposited by the appellant with the High Court Legal Services Committee, within a period of two months from today and a receipt of the costs shall be furnished before the Registry of this Court. In case the aforesaid costs are not deposited within the aforesaid stipulated period, then the Registry shall list this case for compliance purposes.

(JASGURPREET SINGH PURI)
JUDGE

(AMARJOT BHATTI)
JUDGE

07.05.2026

rakesh

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No