



CWP-21737-2022

-1-

116

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

CWP-21737-2022

Date of Decision : 21.04.2026

DISTRICT RED CROSS SOCIETY LUDHIANAPetitioner

VERSUS

**INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUDHIANA,
AND OTHERS**

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Vishal Gupta, Advocate,
for the petitioner.

Mr. Sharwan Sehgal, Advocate,
for respondent no.2 (Through V.C.)

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, filed under Article 226/227 of the Constitution of India, the validity of Award dated 29.04.2022 (Annexure P-7), has been put to challenge by the management, as the reference made under Section 10(1) (c) of the Industrial Disputes Act, 1947, was answered in favour of respondent no.2-workman, while granting the relief of reinstatement with continuity of service and 50% back wages, alongwith all other consequential service benefits.

2. Before this Court examine the validity of the impugned Award, it is imperative to have a glimpse upon the facts *qua* which there is no wrangle amongst the parties concerned.

3. The respondent no.2-workman, was appointed as a Chowkidar, at DC Rate, in the year 1986. Thereafter, his services were

dispensed with on 31.07.2006, after payment of retrenchment compensation. However, he was reappointed on 07.11.2014, as Chowkidar, on DC rate. On 28.08.2016, a complaint was received that respondent no.2-workman came present on duty in drunken condition. The said complaint was marked to the SDM concerned, for inquiry by the Deputy Commissioner-cum-President, District Red Cross Society concerned. Accordingly, the SDM conducted the inquiry, and submitted his report on 15.05.2017. This report was made available to respondent no.2-workman on 06.09.2017. He was granted an opportunity of hearing by the Deputy Commissioner-cum-President, District Red Cross Society on 13.09.2017. Finally, he was dismissed from service on 29.09.2017 by passing a speaking order.

4. Respondent no.2-workman preferred an intra-departmental appeal, but he remained unsuccessful, as the same was also dismissed on 31.04.2018. Thereupon, he served a demand notice, which was, subsequently, referred to, as a reference under the provisions of Section 10(1)(c) of the Industrial Disputes Act, 1947, and finally, the Award, as impugned herein, was passed in his favour, observing that no effective inquiry was conducted by affording any effective opportunity of hearing to respondent no.2-workman. Therefore, the order of dismissal was interfered with, and the Award, which is impugned before this Court, was passed.

5. Learned counsel for the petitioner-management raised two fold arguments, in his attempt to throw challenge to the legality of the

Award (*supra*):-

i) In case the Tribunal, has concluded that no effective inquiry was conducted, thereupon, it is the obligation upon the Tribunal only, to allow the petitioner-management, to lead evidence to substantiate the charges as levelled against respondent no.2-workman;

ii) The Tribunal has emphasised to the effect that the relevant service rules have not been followed, therefore, the inquiry is held to be vitiated, however, the Punjab Civil Service Rules, is not applicable to the service condition of respondent no.2-workman, as he was employed by a Society registered under the Indian Red Cross Society Act, 1939, and not under the Societies Registration Act, 1860 (as applicable to Punjab).

6. Learned counsel for respondent no.2-workman, on the other hand, vociferously opposed the submissions, as made by learned counsel for the petitioner-management, and submits that in the instant case, although, the SDM conducted an inquiry, however, respondent no.2-workman, was neither associated with the said inquiry, nor was afforded an opportunity to cross-examine the witnesses. Therefore, such an inquiry has no evidentiary value in the eyes of law, and in the absence of a valid inquiry report, the order of dismissal does not to pass the test of legality.

7. He further submits that the scope of this writ court to interfere with the factual finding is very limited. Since no perversity has



been pointed out by learned counsel for the petitioner, therefore, this Court ought not to interfere with the well reasoned Award. However, he fairly concedes that the relief of reinstatement is not feasible as respondent no.2-workman, has already attained the age of superannuation.

8. This Court has examined the rival submissions, and has perused the entire Award, with the able assistance of learned counsel for the parties.

9. The Tribunal has concluded that the inquiry has not been conducted in fair and proper manner, as no opportunity of hearing, and even opportunity to cross-examine the witness was afforded to the respondent no.2-workman. Learned counsel for the petitioner-management, is unable to refute this fact. The Tribunal has considered this aspect and declared the inquiry as illegal. The relevant is extracted hereinafter:-

“12) After hearing the rival contentions of the parties and with the valuable assistance for A/Rs of the parties, it transpires that the workman was appointed as Chowkidar in District Red Cross Society, Ludhiana in the year 1986. However, services of the workman were terminated vide order dated 27.09.2017. dismissal before the Commissioner, Patiala. But the same met with order of dismissal. Though the workman himself stepped into the witness box and reiterated his version that the Enquiry Officer SDM (West), Ludhiana did not provide him reasonable opportunity during the enquiry proceedings and thereby violated the principle of natural justice and the order of dismissal is not a speaking order as no reasoning is mentioned in the same. Surprisingly, no question was asked to WW-1 nor any suggestion was advanced to him that proper and reasonable opportunity was afforded to him during the enquiry proceedings. By the Enquiry officer, Respondents examined RW-1 Balbir Chand who deposed on the terms case of the



respondents/management. He reiterated the version if the respondents that the workman was appointed as Chowkidar in the year 1986, but his services were retrenched in the year 2017 and he was given the compensations amount of Rs.56985/- upto July, 2006 after his retrenchment. RW-1 also proved the letter Ex.R/1 regarding the payment of compensation to the workman. Therefore, the workman cannot claim compensation from the year 1986. He further deposed that the workman was again appointed on 15.07.2002 vide letter Ex. R/2. He further stated that the workman was placed under suspension as he was found guilty of misconduct and misbehavior with the fellow employees and officers regarding which enquiry was marked to the SDM (West), Ludhiana in this regard. (West), Ludhiana conducted the enquiry and found him guilty and thereafter, his services were terminated on 29.09.2017 after providing the opportunity of personal hearing to him by Deputy Commissioner on 13.09.2017. RW-1 also testified that the workman filed false and frivolous cases against the employees of the respondents which were dismissed by the concerned Courts vide judgments dated 29.07.2017 and 09.09.2016 Ex.R/4 and R/5 respectively. However, during the course of cross examination of RW-1 admitted in unequivocal terms that the enquiry proceedings were neither conducted in his presence nor he has produced any proceedings of the enquiry in the court. He also feigned ignorance regarding the witnesses examined during the enquiry proceedings as the enquiry was not conducted in his presence. He went to the extent of expressing ignorance regarding the examining of any prosecution witness or regarding their cross examination during the course of enquiry proceedings. He also concedes that no compensation was given to the workman when his services were dismissed. He also expressed ignorance in his cross examination regarding cases filed by the workman relating the his personal issues or not.”

10. This Court also concurs with the aforesaid observations, as no opportunity of hearing, including the opportunity to cross-examine the witnesses relied upon by the Inquiry Officer, was ever afforded to respondent No. 2–workman. Therefore, this piece of evidence, i.e., the inquiry report, cannot form the basis for passing an order of dismissal.



CWP-21737-2022

-6-

The Tribunal has, thus, rightly interfered with the dismissal order.

11. Now the question arises for consideration before this Court, as to whether, the relief granted by the Tribunal would fetch any justice to respondent no.2-workman or not?

12. Since respondent no.2-workman, has already attained the age of superannuation, therefore, his reinstatement is not feasible. Therefore, considering the fact that the petitioner has worked from 07.11.2014 till 29.09.2017, this Court is of the considered view that respondent no.2-workman, can be, adequately, compensated by paying a lump sum compensation of Rs.3 Lakh.

13. The aforesaid amount of Rs.3 Lakh, shall be transferred in the bank account of respondent no.2-workman, as available with the petitioner-manager, within a period of six weeks from the date of this order.

14. In case of failure on the part of the petitioner-management to deposit the aforesaid amount, within stipulated period, respondent no.2-workman, shall be entitled for an interest at the rate of 9% p.a. on delayed payment.

15. **Disposed of** accordingly.

16. All pending application(s), if any, also stand **disposed of** accordingly.

April 21, 2026
dharamvir

(KULDEEP TIWARI)
JUDGE

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