

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

**CWP No.15412 of 2012**

**Reserved on:13.10.2014**

**Date of decision:21.11.2014**

*Pepsu Road Transport Corporation*

*... Petitioner*

*Vs.*

*The Presiding Officer & others*

*... Respondents*

**CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.**

Present: Mr. Harsh Aggarwal, Advocate for the petitioner.

Mr. Vikas Singh, Advocate for respondent No.2.

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**TEJINDER SINGH DHINDSA, J.**

Challenge in the instant writ petition is to the award dated 18.01.2012 (Annexure P-5) passed by the Presiding Officer, Industrial Tribunal, Bathinda, whereby while answering the reference in favour of the workman/respondent No.2 and holding his order of termination from service dated 21.07.1999 to be bad in law he has been held entitled to reinstatement with continuity of service and 50% back wages.

Mr. Harsh Aggarwal, Advocate for the petitioner/Pepsu Road Transport Corporation would argue that the order of termination of the workman had been passed after following due procedure. In this regard, it is submitted that a regular departmental inquiry had been held in which the workman had been duly associated and it is only upon the Inquiry Officer having recorded findings against the workman that the termination order had been passed. Counsel argues that there was overwhelming evidence on

record that a proper inquiry had been conducted and the Labour Court as such has erred in holding the order of termination to be illegal and directing reinstatement. Heavy reliance has been placed on the deposition of the workman before the Labour Court, wherein it had not been disputed as regards holding of an inquiry and adopting due procedure. Yet another submission raised is that even if the Labour Court had reached a conclusion that the inquiry proceedings were not proper, the prudent course of action to be followed was to have remanded the case back to the management for holding a fresh inquiry.

Per contra, Mr. Vikas Singh, learned counsel appearing for the workman/respondent No.2 would contend that the findings recorded by the Labour Court as regards the inquiry report being vitiated was on a due appreciation of evidence and would not call for any interference by the writ Court in exercise of its supervisory jurisdiction under Article 226 of the Constitution of India.

Having heard counsel for the parties at length, this Court is of the view that the instant writ petition merits dismissal.

Workman/respondent No.2 while working as Conductor with the Pepsu Road Transport Corporation, Faridkot Depot was charge sheeted vide memo dated 08.09.1997 and the following articles of charge were framed:

*“1. On 08.08.1997 while on duty in Bus No.9231, you have charged the amount of fare alongwith tax thereon from 9+15 (24) passengers nine boarding from Nangar Bhur to Pathankot and fifteen passengers from Damtal to Pathankot and did not issue the tickets and thus, guilty for theft of Rs.90/- of the Corporation.*

*2. Negligence in performance of duty and creating indiscipline.”*

Workman submitted his reply to the charge sheet on 03.11.1997. The service Engineer of the depot was appointed as the Inquiry Officer vide order dated 06.11.1997. The Inquiry Officer submitted the inquiry report and which was adduced on record before the Labour Court as Annexure M-1. The same has also been placed on record and appended as Annexure R-1 along with the reply filed on behalf of the workman. Such inquiry report is a two paragraph report and reads as follows:

*“:Subject: Enquiry report regarding Sh. Sajjan Singh C No.P-16.*

*Vide order No.1049 dated 06.11.1997, I got the orders for inquiry against Sh. Sajjan Singh C No.P-16. On this basis, in the presence of the Presenting Officer, his consent was taken for enquiry and regarding the language. As per charge sheet no.3239 dated 08.09.1997, in charge No.1 & 2, nine passengers travelling from Nangalpur to Pathankot and 15 passengers from Damtal to Pathankot were found without tickets from whom you had charged Rs.90/- along with tax. In this case the statement of department witnesses were recorded. You were given full opportunity to cross-examine, Sh. Gurdev Singh Inspector and Sh. Ram Gopal, Inspector. You gave your defence statement and the Presenting Officer cross-examined you.*

*In the end I on the basis of their statements have reached the conclusion that the Conductor has committed theft of Rs.90/- of the Corporation. The Inspectors should have checked the cash and therefore on the basis of suspicion charges no.1 & 2 are proved. The report is sent for further action.*

*Service Engineer  
PRTC Faridkot.”*

Concededly, the order of termination of service of the petitioner dated 21.07.1999 was passed on such inquiry report.

Perusal of the impugned award would reveal that the following issues had been framed by the Labour Court:

- “1. Whether service of workman stand validly terminated by the management? If not so, to what relief is he entitled? OPR.*
- 2. Whether fair and proper enquiry was conducted by the respondent before termination of services of workman? OPR.*
- 3. Relief.”*

The Labour Court while holding the order of termination of the workman to be illegal has taken a view upon scrutiny of the inquiry report Ex.M-1 that it was a case of no inquiry as no specific findings with regard to guilt of the delinquent official regarding charges levelled against him had been recorded. It was further held that the inquiry report is nothing but the reproduction of allegations and the names of the witnesses.

This Court would have no hesitation in holding that the view taken by the Labour Court in the impugned award is perfectly just.

The inquiry report as has been placed on record at Annexure R-1 is wholly cryptic and is not supported by any reasons. The Inquiry Officer has proceeded in a slip shod manner. He has acted in a manner unbecoming of a quasi-judicial authority. Holding of a departmental inquiry is not an empty formality. The inquiry report does not show any application of mind as regards appreciation of evidence adduced before the Inquiry Officer and there are no findings recorded with regard to articles of charge formulated. The Inquiry Officer has gone on to record that it is on the basis of suspicion that charges No.1 and 2 are proved.

The order of termination which is founded on such cryptic

inquiry report cannot sustain.

At this stage, Mr. Harsh Aggarwal, learned counsel appearing for the petitioner would contend that the workman has a chequered service record and has suffered as many as 50 punishments in his tenure of service. Such submission is without any consequence as the termination order dated 21.07.1999 at Annexure P-2 was passed only on the basis of inquiry report Annexure R-1 and the previous misconduct if any had not weighed with the Punishing Authority.

Even the contention as regards Labour Court having not remanded the matter back for fresh inquiry is without merit. Counsel for the petitioner-corporation has conceded that no such plea was raised before the Labour Court.

In view of the reasons recorded above, this Court does not find any infirmity in the view taken by the Labour Court. As such, the impugned award dated 18.01.2012 at Annexure P-5 is upheld and the writ petition is dismissed.

**November 21<sup>st</sup>, 2014.**  
*harjeet*

**(TEJINDER SINGH DHINDSA)**  
**JUDGE**

Note: Whether referred to the Reporter?

Yes