

2025:PHHC:138351



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

CWP-24280-2013 (O&M)
Date of decision: 01.10.2025

Din Dayal through his Legal RepresentativesPetitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak and
anotherRespondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Sumeet Jain, Advocate,
for the petitioner.

Mr. Shivam Sachdeva, Advocate, for
Mr. Akash Yadav, Advocate,
for respondent No.2.

KULDEEP TIWARI, J. (Oral)

1. The petitioner-workman has approached this Court by filing the instant writ petition, as cast under Article 226/227 of the Constitution of India, challenging the order dated 15.02.2006 (Annexure P-10), and award dated 03.10.2013 (Annexure P-12), rendered by the learned Industrial Tribunal-cum-Labour Court, Rohtak-respondent No.1. Further, the order dated 14.05.1996 (Annexure P-7), passed by the Management-respondent No.2, has also been assailed, vide which, he was dismissed from service, besides the charge sheet dated 29.08.1995(Annexure P-3) served upon him.

Factual Matrix

2. Succinctly put, the undisputed facts of the case are that, the petitioner was appointed as Humidity Attendant with the Engine Department of the respondent-Management on 01.06.1960. After

rendering around 35 years of successful service, he was transferred to the post of Moisture Attendant in Cone Packing Department, vide order dated 26.04.1995, to attend to his duties, in the night shift. Thereafter, he was served with a charge sheet dated 29.08.1995 (Annexure P-3), on the following deficiencies:-

- “(i) Wagons of the goods were not set during night
- (ii) None of the wagons of the goods were arranged shift wise.
- (iii) None of the wagon of goods was handed over to winding after de-loading the same.
- (iv) No stock of Cone was given.
- (v) No wagon of good was arranged quality wise.”

3. In response, the petitioner-workman filed a detailed reply dated 12.09.1995 (Annexure P-4). However, dissatisfied with the reply, the respondent-Management opted to conduct an enquiry, and accordingly, appointed an Enquiry Officer. Resultantly, since, the petitioner was found guilty of the charges framed against him, he was put to a show cause notice dated 03.04.1996 (Annexure P-5), as to why, his services be not terminated. He duly responded to the notice (supra), vide a comprehensive reply dated 02.05.1996 (Annexure P-6). Eventually, the entire exercise culminated into dismissal of his services, vide order dated 13/14.05.1996 (Annexure P-7). Fetching grievance from the order (supra), the petitioner-workman raised an industrial dispute by filing a claim statement, which was referred to the learned Labour Court by way of reference under Section 10(1)(C) of the Industrial Disputes Act, 1947 (for short, ‘the Act’). Proceeding with the matter, the learned Labour Court framed the preliminary issue, “*whether the respondent conducted a*

just and fair domestic enquiry against the workman?”, if not, to what effect?”

4. After analyzing the matter, the issue (supra) was decided against the petitioner-workman, vide order dated 15.02.2006 (Annexure P-10), with an observation that the enquiry was conducted in a fair and proper manner, after affording due opportunity of hearing to the parties concerned. Thereupon, both the parties were allowed to lead evidence qua other issues, and proceeding on the same lines, the learned Industrial Tribunal, through the impugned award dated 03.10.2012 (Annexure P-12), answered the reference against the petitioner-workman. Hence, the instant writ petition.

Submissions on behalf of the petitioner-workman

5. Commencing his submissions, learned counsel draws attention of this Court towards the transfer order dated 26.04.1995 (Annexure P-1), wherethrough, the petitioner was transferred from the post of Humidity Attendant to the post of Moisture Attendant in Cone Packing Department. He impresses upon the Court to take note of the contents of the transfer order (supra), that since the petitioner was aware of the work, hence he would not be required to undergo any training. In furtherance of the submissions, he asserts that the very basis of issuance of the charge-sheet was that despite being imparted 2 months' training of Moisture Attendant, the petitioner was not performing his duties efficiently. However, he was not, at all, imparted any training, rather, after rendering 35 years of service in a specific stream, petitioner, at the stroke of a pen, was shifted to a different department. Whereafter, as referred to above, he was served with a charge-sheet, on account of inefficient performance in discharge of his duty.

6. He submits that the abovesaid sequence of the ordeal of the petitioner, apparently reflects that the matter at hand is nothing short of a cast iron case of victimization on the part of the Management and thus, falls within the ambit of unfair labour practice. Taking the Court through the order of settlement dated 14.08.1995, he submits that service conditions of the petitioner-workman were changed on 14.08.1995, whereas, he was transferred much prior to that. Further, per the changed service conditions, the workman could be transferred to another department, subject to imparting of requisite training. However, he submits that by a bare perusal of the transfer order, it can be comprehended that no training was ever imparted to the petitioner, at any point of time. Therefore, the charges framed against the petitioner through the impugned charge-sheet are, in fact, apparently reflect *malafides* on the part of the Management against the petitioner.

7. While taking his submissions further, he refers to the show cause notice dated 03.04.1996 (Annexure P-5), to submit that, in fact, the Authority concerned had already made its mind to saddle the petitioner with the hardest punishment of dismissal, and therefore, the notice does not pass the test of legality. It appears that the notice (*supra*), was issued only to avoid the situation of infraction of principles of natural justice. He asserts that learned Tribunal as well as the Management mainly relied upon charge sheet dated (*supra*), which, to the utter surprise, was never taken to a logical end, as the same had been adjourned *sine die*, but this aspect escaped notice of the learned Tribunal. He concluded by submitting that even for the sake of argument, if the charges are taken to be correct, and that the Management has conducted a fair and proper inquiry, even then, the punishment of dismissal imposed upon the

petitioner is highly disproportionate. In such circumstances, the learned Tribunal was obligated to invoke Section 11-A of the Act of 1947, but it miserably failed to. Therefore, indulgence of this Court is required.

Submissions on behalf of the respondent-Management

8. On the other hand, Mr. Shivam Sachdeva, Advocate, appearing for Mr. Akash Yadav, learned counsel for the respondent-Management, strongly opposes the submissions made on behalf of the petitioner. He submits that, undoubtedly, the enquiry was conducted, after complying with all the necessary requirements, including the principles of natural justice, i.e., the charge-sheet had been served, the Enquiry Officer was appointed, and even show cause notice was issued to the petitioner, thereby affording him due opportunity of hearing. However, he submits that validity of the enquiry cannot be examined under the writ jurisdiction. He asserts that, though the settlement was finally accepted by the learned Tribunal on 14.08.1995, but the proceedings were initiated from 15.12.1992, and even, the proceedings were recorded on 05.04.1994. Therefore, the petitioner-workman cannot take a plea that his service conditions were changed, without there being any settlement. He next contended that the Management, which is in the business of manufacturing, had suffered a huge financial loss, as the petitioner failed to discharge his duty efficiently, and thus, its decision to dismiss the petitioner from service, is in proportion to the charges framed against him. Finally, it is submitted that the Management does not have any ill-will against the petitioner, and considering his length of service, an option was given to him to re-join the Management, which he did not opt for.

9. This Court has heard the rival submissions advanced on behalf of the parties, and perused the records.

Analysis

10. The first and foremost issue, which requires consideration by this Court, is, as to whether, transfer of a petitioner to a different department was in consonance with the settlement or not?

11. A bare analysis of the records indicates that petitioner was transferred on 26.04.1995, whereas, the settlement was accepted by the learned Industrial Tribunal on 14.08.1995, which authorized the Management to transfer its employees/workmen from one department to other. Further, the settlement (supra) imposed an obligation upon the Management to impart two month's training, before transferring any workman. However, in the matter at hand, no such training was ever imparted to the petitioner, rather, it was categorically recorded in the transfer order that, ***“since, you are aware of this work, hence you are not required training.*** Therefore, it is imperative to observe that the version of respondent-Management itself is self-contradictory, for, on the one hand, the Management had decided not to impart training to the petitioner being a veteran employee, and on the other, he was saddled with the charges of inefficiency in discharging his duty with respect to the department, which was altogether new to him, as is clear from the charge-sheet. In such circumstances, it is apparent that the learned Industrial Tribunal has grossly failed to take into account this aspect of the matter. There is no wrangle about the fact that the respondent-Management has followed the requisite procedure, while conducting the enquiry, including serving a show cause notice, but this Court cannot turn a blind eye to the fact that the petitioner has been saddled with the

charges, for which he could not be blamed. Therefore, it is unhesitatingly held that the transfer of the petitioner was not in consonance of the settlement (supra).

12. This Court has also examined the show cause notice dated 03.04.1996, which was issued by the disciplinary authority on receipt of enquiry report. It is imperative to have a close look on the contents thereof, which read, as thus:-

“On the basis of charges, the misconduct done by you falls within definition of serious misconduct and this amounts to gross misconduct. Keeping in view the facts of these charges you are liable to be awarded punishment of dismissal. Copies of enquiry reports are being sent to you with this letter. Through this letter you are asked to submit your reply within 7 days to show cause as to why the afore-proposed punishment be not awarded to you being guilty under the charge sheet. In case there is any extenuating circumstances which can lead to lesser punishment then dismissal as per your wisdom may also be written in the reply to this notice. Your old and present record has been considered which proves further seriousness of the present charges. In case your reply is not received within the aforesaid period, it will be deemed that you do not want to say anything in your defence and on the basis thereof further proceedings will be initiating against you, without affording any further opportunity.”

13. A bare reading of the show cause notice clearly reflects that the punishing authority, had proceeded on a pre-conceived notion of drawing a dismissal order against the petitioner. In the totality of the facts and circumstances, as demonstrated above, it is inevitable to observe that issuance of the show cause notice was no more than a mere formality, and that too, putting the petitioner in a cul-de-sec, therefore, the notice does not pass the test of legality.

14. In conspectus of the position sketched out above, the submission that the punishment of dismissal is disproportionate to the charges framed against the petitioner, also weighs with this Court. In the preceding paragraphs, this Court has already examined that the charge-sheet was predicated only upon a factor of inefficiency on the part of the petitioner in discharging his duties, but it is also true that he was not imparted any training, before transferring him to a different department, to which, he was a naive. In such circumstances, it cannot be overlooked that he had rendered 35 years of service with the respondent-Management, and the learned Tribunal, while keeping this fact in mind, ought to have examined the matter, in view of Section 11-A of the Act, which, it miserably failed to.

Conclusion

15. In the wake of the above, the order dated 13/14.05.1996 (Annexure P-7), whereby, the petitioner was dismissed from service, and also the award dated 03.10.2012 (Annexure P-12), are set aside. Consequently, the petition stands **allowed**.

Relief

16. However, as the dismissal order was passed way back on 13.05.1996, and, as informed to this Court, the petitioner was about 55

years of age when he was dismissed, ergo; the relief of reinstatement does not survive. Moreover, unfortunately, he has since passed away, during the pendency of the writ petition.

17. In such circumstances, the only relief that can be granted by this Court is compensation. It is also a conceded position on record that the requisite monetary benefits, post dismissal from services, have already been paid to the petitioner. Thus, taking all the relevant aspects, as discussed hereinabove, into consideration, this Court is of the affirmed view that ends of justice would be met, if an amount of Rs.2,00,000/- is paid by the respondent-Management to the LRs of the petitioner, towards compensation.

18. Ordered accordingly.

19. The abovesaid amount shall be remitted within a period of one month from the receipt of a certified copy of this order.

(KULDEEP TIWARI)
JUDGE

01.10.2025

Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No