



CWP-1202-2018 (O&M) & connected cases 1

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

**(278) CWP-1202-2018 (O&M)
Date of Decision : July 17, 2025**

M/s Bharat Seats Ltd. .. Petitioner

Versus

Ashok Kumar Mishra and another .. Respondents

(2) CWP-5609-2018 (O&M)

M/s Bharat Seats Ltd. .. Petitioner

Versus

Surinder Kumar and another .. Respondents

(3) CWP-5610-2018 (O&M)

M/s Bharat Seats Ltd. .. Petitioner

Versus

Chander Kanta and another .. Respondents

(4) CWP-5611-2018 (O&M)

M/s Bharat Seats Ltd. .. Petitioner

Versus

Mehkar Singh and another .. Respondents

(5) CWP-5612-2018 (O&M)

M/s Bharat Seats Ltd. .. Petitioner

Versus

Babu Lal and another .. Respondents



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(6) CWP-5613-2018 (O&M)

M/s Bharat Seats Ltd.

.. Petitioner

Versus

Manisha Chaudhary and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Harsh Aggarwal, Advocate, for the petitioner(s)
in all petitions.

Mr. Vishal Sodhi, Advocate, for respondent No.1
in CWP-5610-2018.

Mr. Karnail Singh, Advocate, for respondent-workmen
(in all other cases).

HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order, six writ petitions, the details of which have been given in the heading, are being disposed of as all these petitions involve the same question of law on similar facts.

2. In the present bunch of writ petitions, the challenge is to the Award dated 23.08.2017 published on 27.11.2017 (Annexure P-1) passed by the Labour Court by which, the respondent-workmen have been granted the relief of reinstatement with full back wages by recording a finding that the enquiry against the respondent-workmen which led to their termination of service vide order dated 26.04.2002 was not in accordance with law and rather, the same was based upon a biased enquiry which was conducted by a person who was working a junior counsel to the authorized representative appearing for the petitioner-Company in his chamber.

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3. Learned counsel for the petitioner(s)-Company further submits that the Enquiry Officer was independent and therefore, the enquiry conducted proving the allegations against the respondent-workmen should have been held to be valid by the Labour Court while passing the Award dated 23.08.2017 (Annexure P-1).

4. An alternative argument has also been raised by the learned counsel for the petitioner-Company that in case the enquiry proceedings conducted by the Enquiry Officer were not valid, the opportunity should have been granted to the petitioner-Company to either hold the enquiry proceedings against the workman again or an opportunity should have been given under Section 11-A of the Industrial Disputes Act, 1947 by the Labour Court to prove the allegations against the respondent-workmen which was not granted and therefore, the respondent-workmen against whom the allegations were alleged, should not be allowed to get the benefit of reinstatement along with full back wages upon technicalities.

5. Learned counsel appearing on behalf of the petitioner-Company submits that the enquiry proceedings are conducted by an independent officer based upon the evidence without any bias hence, the finding of the Labour Court are perverse.

6. Learned counsel for the respondents submits that in the present case, the juniors of the authorized representative of the petitioner-Company who were working in his office, were appointed as an Enquiry Officer to conduct the enquiry of the respondent-workmen and in the said situation how can a junior, go against his senior, under whom they were working and is the authorized representative of the petitioner, which fact has been duly appreciated by the Labour Court while passing the Award dated 23.08.2017

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(Annexure P-1) to hold that the enquiry proceedings were not valid but were biased hence, the same may kindly be upheld.

7. Learned counsel for the respondents further submits that even during the enquiry, no opportunity was given to them to defend the said allegations hence, the finding recorded by the Labour Court that the enquiry was bad as it was biased, which was the basis of the termination of the services of the respondent-workmen and the relief has been granted, the same may kindly be upheld.

8. I have heard learned counsel for the parties and have gone through the record with their able assistance.

9. The Labour Court while passing the Award dated 23.08.2017 (Annexure P-1) held that the enquiry proceedings conducted against the respondent-workmen was biased, has set aside the said enquiry and the consequent orders of the punishment of termination.

10. It may be noticed that the same has been done on the ground that the rules of natural justice have been violated while conducting the enquiry and the respondent-workmen have been prejudiced.

11. The said finding has been recorded on the ground that the Enquiry Officer, who was appointed and conducted the enquiry, was working in the office of authorized representative of the management, who was conducting the proceedings on behalf of the management. As per the Labour Court, the Enquiry Officer was not neutral and could not have conducted a fair enquiry as he was facing his own senior in whose office, he was working as a junior especially so as to enquire into the charge-sheet which was issued by the management and the immediate boss of the enquiry officer in whose chamber, the enquiry officer was working, was appearing



as authorized representative of the management conducting the case in front of his own junior colleague.

12. The Enquiry Officer has to be neutral and has to evaluate the issue brought before him to be decided. A person, who is working in the chamber of authorized representative of the management as his junior, cannot be treated to be neutral one. The said factum that the Enquiry officer was working in the chambers of the authorized representative of the management as his junior, has not been rebutted by the learned counsel for the petitioner-company. Once the said fact has gone unrebutted, the findings recorded by the Labour Court while passing the Award dated 23.08.2017 (Annexure P-1) that the enquiry proceedings were not conducted in a free and fair manner and were biased, cannot be treated to be perverse to the facts or the evidence brought on record.

13. Not only this, as per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Writ Petition (Civil) No.217 of 2011 titled as P.D. Dinakaran vs. Hon'ble Judges Inquiry Committee and others, decided on 05.07.2011***, a finding has been recorded that principle of natural justice consist of Rule against bias or interest and is based upon three maxims that nobody can be judge in his own case and the justice should not only be done but seem to have been done and further that the judges should be above suspicion. The relevant paragraph 25 of the said judgment is as under:-

“25. In this case, we are concerned with the application of first of the two principles of natural justice recognized by the traditional English Law, i.e., Nemo debet esse judex in propria causa. This principle consists of the rule against bias



or interest and is based on three maxims: (i) No man shall be a judge in his own cause; (ii) Justice should not only be done, but manifestly and undoubtedly be seen to be done; and (iii) Judges, like Caesar's wife should be above suspicion. The first requirement of natural justice is that the Judge should be impartial and neutral and must be free from bias. He is supposed to be indifferent to the parties to the controversy. He cannot act as Judge of a cause in which he himself has some interest either pecuniary or otherwise as it affords the strongest proof against neutrality. He must be in a position to act judicially and to decide the matter objectively. A Judge must be of sterner stuff. His mental equipoise must always remain firm and undetected. He should not allow his personal prejudice to go into the decision-making. The object is not merely that the scales be held even; it is also that they may not appear to be inclined. If the Judge is subject to bias in favour of or against either party to the dispute or is in a position that a bias can be assumed, he is disqualified to act as a Judge, and the proceedings will be vitiated. This rule applies to the judicial and administrative authorities required to act judicially or quasi-judicially.”

14. In the present case, the Enquiry Officer who was the judge appointed to conduct the enquiry into the allegations, cannot be a person who is working in the chamber of the authorized representative of the management. Hence, the case will be covered under the maxim that the justice should not only be done but seem to have been done.

15. Not only this, the judge should be above suspicion and in the present case, the suspicion was writ large as the Enquiry Officer was a junior working in the chamber of the authorized representative of the management.

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16. Learned counsel for the petitioner has not been able to dispute this factual aspect as well as the settled principle of law noticed hereinbefore in *P.D. Dinakaran's case (supra)*.

17. The argument of the learned counsel for the petitioner is that after recording the finding that the enquiry was biased, the Labour Court has power under Section 11-A of the Industrial Disputes Act, 1947 to give an opportunity to the management to lead an evidence to prove the allegation against respondent-workmen which was not done or the management should have been given the opportunity to conduct the enquiry again in a manner which is free and fair.

18. The said argument is valid.

19. Once, it was held that the enquiry proceedings were biased and were not fair, the management has to be given the chance either to prove the allegations before the Labour Court or give a chance to the management to hold the enquiry afresh to prove the allegations alleged against the respondent-workmen. Keeping in view the fact that as the Labour Court has not given the said opportunity to the petitioner to prove the allegations before the Labour Court, in the facts and circumstances of the present case, in case it is possible to conduct the enquiry against the respondent-workmen as of now, the petitioner will be free to do the same and take it to the logical end.

20. It may be noticed that the enquiry can only be conducted against the respondent-workmen who are working and in case, the workmen are no longer in the service of the petitioner-Company and have attained the age of superannuation, no enquiry will be possible at this stage.



21. Further, the Award dated 23.08.2017 (Annexure P-1) passed by the Labour Court can only be interfered with by Court in case the same is perverse to the facts, material evidence or the settled principle of law. In the present case, learned counsel for the petitioner-Company has not been able to point out any perversity noted in the aforementioned Award either on facts, material evidence or the settled principle of law. Rather, the facts and evidence which have been brought on record, supports the findings which have been recorded by the Labour Court while passing the said Award. Hence, no case is made out for this Court to interfere with the Award except that in case it is permissible to hold the enquiry as of now against the respondent-workmen qua the allegations alleged, i.e. in case they are in service, and have not attained the age of superannuation, the petitioner-Company can hold such enquiry against the workmen.

22. Keeping in view the totality of the circumstances, the petitioner(s) will be free to conduct the departmental proceedings against the respondent-workmen in case the same is permissible even as of now as per the settled principle of law.

23. Further, there was an interim order dated 08.08.2018 in favour of the petitioner-Company which led to the non-reinstatement of the respondent-workmen and further, nothing evident has come on record that Section 17-B of the Industrial Disputes Act was complied with qua the workmen so as to be paid the last drawn salary. The writ petitions were pending for the last seven years but no amount has been paid to the respondent-workmen which shows the conduct of the petitioner-Company as well. The petitioner has to act as a modal employer to comply with the

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provisions of law and despite the fact that the operation of the impugned order was stayed and an application under Section 17-B of the 1947 Act was also filed as far back as 03.12.2018 but nothing has been brought to the notice of this Court that workmen were paid the last pay drawn wages rather they have been left to survive on their own despite there being a provision under law to get the last drawn wages in the facts and circumstances of the present case.

24. Keeping in view the totality of the circumstances noticed hereinbefore, no ground is made out for any interference by this Court qua the Award dated 23.08.2017 (Annexure P-1) except that in case it is permissible as of now to hold an enquiry against the workmen who are in service and have not attained the age of superannuation, the petitioner will be free to avail the said remedy.

25. The present writ petitions are disposed of in above terms.

26. Civil miscellaneous application pending if any, also stands disposed of.

27. A photocopy of this order be placed on the file of other connected cases.

July 17, 2025

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No