

**(2014) 11 P&H CK 0100**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : C.W.P. No. 9150 of 1994**

Balbir Singh

APPELLANT

Vs

The Moga Central Cooperative Bank Ltd.

RESPONDENT

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**Date of Decision :** 19-11-2014

**Acts Referred:**

**Citation :** (2015) 2 SCT 189

**Hon'ble Judges :** Mahesh Grover, J

**Bench :** Single Bench

**Advocate :** Harit Sharma, Advocates for the Appellant

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## Judgement

Mahesh Grover, J.—The petitioner impugns the award dated 21.12.1993. He had raised an industrial dispute regarding the validity of his termination and the following question was referred to the Tribunal for adjudication:-

"Whether termination of services of the workman is justified and in order? If not, to what relief/exact amount of compensation is he entitled to?

The case as set up by the petitioner was that his services were wrongly terminated on 2.6.1985 even though he had been working as Daftri since December 1956, without any notice or compensation.

The Management refuted the claim of the petitioner and contended that the petitioner had applied for leave for 31.5.1985 and 1.6.1985 and thereafter he absented himself from duty. The petitioner was suspended on 30.10.1985 and this fact was communicated to him vide two letters dated 30th and 31st of October 1985. A charge-sheet was served upon him at his home address vide letter dated 6.1.1986 and he was directed to file a reply to it. No reply, however, was filed and thereafter Shri Harnek Singh, Assistant Manager was appointed as Enquiry Officer on 28.4.1986 who also informed the petitioner vide letter dated 2.7.1986 about the same. The petitioner, however, did not participate in the enquiry proceedings and the Enquiry Officer through his own efforts discovered that the petitioner had left the country to go abroad. When the petitioner

returned to the country a charge-sheet was served upon him on

27.6.1987 who then filed a reply to the charge-sheet admitting his guilt of being absent from duty, upon which he was dismissed from service.

2. The Tribunal framed the following two issues for determination:-

i) Whether the reference is not maintainable as alleged in legal objections taken in written statement?

ii) Whether the order of termination of services of the workman is justified and order?

iii) Relief."

3. The Tribunal then went on to conclude against the petitioner which is now the cause of grievance to him.

4. It has been contended by the learned counsel for the petitioner that principles of natural justice have been grossly violated as the copy of the enquiry report was never supplied to him. Besides this an issue has been raised that the order of dismissal had been passed by a Manager who was not the competent authority. It is the stated case of the petitioner that dismissal order could have been passed by appointing authority and the Manager having no jurisdiction the impugned order of dismissal would necessarily have to be set aside.

5. No one has appeared for the respondents.

6. On due consideration of the matter, I am of the view that the writ petition deserves to be dismissed.

7. The plea of the petitioner that the enquiry report was never supplied to him and thus principles of natural justice have been violated causing acute prejudice to his case cannot be accepted unless prejudice manifests itself. The enquiry report would have had some significance if there was evidence recorded against the petitioner or some material brought on record intended to be used against the petitioner which could have been possibly controverted by him. It may be noticed that initially when the Enquiry Officer initiated the proceedings against the petitioner no reply to the charge-sheet was filed by him. It was left to the Enquiry Officer to discover that the petitioner had gone abroad without sanctioning of his leave. Subsequently when he returned to India he admitted his unauthorised absence by filing a written reply. Even before this Court learned counsel for the petitioner did not dispute this fact and has stated to pointed queries by this Court that indeed there was an admission in this regard. If that be so, then I am of the opinion that the enquiry report which merely was based on the admission of the petitioner itself would have no significance. Thus his contention is rejected.

8. In so far as the plea of the petitioner that the order has been passed by the Manager who is not his appointing authority and thus not empowered in this

regard, I am of the opinion that the petitioner has failed to substantiate his plea. In the impugned award a reference has been made to bye-law 41(B) of the Moga Central Coop. Bank Ltd. Moga to record a finding that the Manager "in addition" would have the power to appoint, suspend, reinstate, punish class IV employees including peons, chowkidars, gunmen, malies and daftries etc. other than those working under the Chief Executive Officer. Learned counsel for the petitioner could not produce any material to show that such a finding has been recorded incorrectly. No bye-laws have been shown to the Court but the relevant bye-law to the contrary has been extracted in para 14 of the petition which reads as under:-

"41.(B). In addition to the powers given to the Manager under bye-law 41 of these bye-laws, the Manager shall have the following powers:-

1. To transfer employees of the rank of Junior Accountant and below other than those working under the control of the Chief Executive Officer.
2. To suspend employees of the rank of Junior Accountants and below other than those working under the control of Chief Executive Officer provided the competent appointing authority i.e. Board of Directors/Executive Committee is informed about the transfer and suspension in the next meeting.
3. To operate upon all types of credit limits sanctioned by Reserve Bank of India and to operate upon the accounts of the Bank with Reserve Bank of India, other banks and institutions alongwith one or more officials as may be nominated by the Board."

The petitioner has conveniently ignored the language of the bye-law which begins with "in addition to the powers given to the Manager under bye-law 41 the Manager would have the following powers". It implies that the ambit of powers of the Manager are defined in bye-law 41 which has even not been shown to this Court even though time was granted for the said purpose. Since the petitioner has failed to show the relevant provision which could have offset the findings recorded by the Tribunal in this regard, I am of the view that the petitioner has failed to adequately enhance his case before this Court. The petition is, therefore, held to be without any merit and is dismissed.