

(2018) 08 P&H CK 0067

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 24859 of 2016

Director, State Transport, Punjab and another

APPELLANT

Vs

President/General Secretary, Punjab Roadways Workers'
Union and another

RESPONDENT

Date of Decision : 06-08-2018

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2018) 08 P&H CK 0067

Hon'ble Judges : SHEKHAR DHAWAN, J

Bench : Single Bench

Advocate : Parminder Singh Kanwar

Final Decision : Disposed off

Judgement

1. Present writ petition filed by State of Punjab under Article 226/227 of the Constitution of India is challenge to the award dated 16.11.2015

(Annexure-P/1) passed by learned Industrial Tribunal-cum-Labour Court, Union Territory, Chandigarh (hereinafter referred to as 'the Tribunal'),

whereby the punishment order dated 13.10.2005 and order dated 19.06.2006 passed by the appellate authority, have been set aside and the petitioner-

management has been directed to release the increments and re-fix the pay of the workman.

2. Facts relevant for the purpose of decision of present writ petition; that one Karnail Singh was working as a Conductor with the petitioner-

management. On 07.02.2003, while he was on duty on bus No.8322, which was going from Morinda to Bela, the said bus was checked by the

inspecting staff. Six passengers were found travelling without ticket and the inspecting staff found that the workman had received the fare from the

passengers, but did not issue tickets. The report regarding embezzlement of Rs.30/- by the workman, was prepared and sent for necessary action. On

the basis of the said report, charge sheet dated 13.03.2003 was issued to the workman which was duly responded by him. Thereafter, considering the

reply filed by the workman to the charge sheet to be not satisfactory, a regular departmental enquiry was conducted wherein the workman was given

due opportunity to defend his case. The Enquiry Officer submitted his report and the punishing authority while agreeing with the findings of the

Enquiry Officer, issued show cause notice to the workman, to which he submitted reply, but the same too was found to be not satisfactory. Personal

hearing was given to the workman and punishment of stoppage of three annual grade increments with cumulative effect was passed on 13.10.2005.

The appeal filed by the petitioner against the order dated 13.10.2005 was rejected by the appellate authority vide order dated 19.06.2006.

3. The petitioner raised an industrial dispute before the Tribunal and challenged the aforesaid orders dated 13.10.2005 and 19.06.2006 and the learned

Tribunal vide impugned award, Annexure P/1 set-aside the punishment order dated 13.10.2005 and order dated 19.06.2006 passed by the appellate authority.

4. Aggrieved of passing of the said award, the petitioner-Management has approached this Court by way of the present writ petition.

5. Notice was issued to the respondents as the reference was made to the Tribunal at the instance of President/General Secretary of Punjab

Roadways Workers' Union and during pendency of the writ petition, no one appeared despite service on 25.08.2017. Thereafter, the matter was

adjourned to 24.11.2017 and 20.03.2017, but nobody appeared on behalf of the respondents. Even on 01.08.2018, the respondents failed to put in

appearance and the arguments were heard.

6. At the time of arguments, learned State counsel representing the petitioners submitted that the Tribunal has not considered the correct facts

because in fact the disciplinary proceedings were initiated and completed against the respondent-workman. He was issued charge sheet to which,

reply was filed by him and thereafter regular enquiry was conducted by the Enquiry Officer. He was given due opportunity to lead his evidence in his

defence as well and after considering the entire matter, the Enquiry Officer

submitted the enquiry report. The appointing authority while agreeing with the report of Enquiry Officer passed the order under challenge.

7. Learned State counsel for the petitioner further submitted that the enquiry file was produced before the Tribunal, but still there are findings to the effect that no enquiry file was produced before it. Learned State counsel also produced complete enquiry file before this Court at the time of hearing arguments. It is also contended that even this fact was admitted by the workman himself in the demand notice that regular enquiry was conducted in this case.

8. The scope of interference in such like disciplinary matters by the Courts is to a limited extent especially when the domestic enquiry has been conducted and due opportunity has been given to the delinquent official. Certainly, the Court can look into the points whether the enquiry was conducted in fair manner and principles of natural justice were followed. It has come on record that the disciplinary proceedings were initiated and completed against the respondent-workman. He was issued charge sheet and reply filed by him was duly considered and thereafter regular enquiry was conducted by the Enquiry Officer. He was given due opportunity to lead his evidence in his defence as well. After considering the entire matter, the Enquiry Officer submitted the enquiry report. The appointing authority while agreeing with the report of Enquiry Officer passed the order under challenge. Courts are not supposed to perform the duties of appellate authority to scan the evidence, but the role of the Courts is limited to the extent that the Court is to see whether domestic enquiry was conducted in a fair manner and due opportunity was given to the delinquent official. Such a view was taken by Hon`ble Supreme Court in Union of India and others V. P. Gunasekaran, 2015(2) SCC 610

9. In view of the above, it has become essential to remand the matter to learned Industrial Tribunal-cum-Labour Court, Chandigarh to consider the matter afresh. Ordered accordingly. Learned Tribunal shall decide the matter preferably within a period of six months from the date of receipt of copy of this Order. Registry is directed to send a copy of this Court to Industrial Tribunal-cum-Labour Court, Union Territory, Chandigarh immediately for compliance.

10. The writ petition stands disposed of in the above terms.