

(2012) 05 DEL CK 0133

In the Delhi High Court

Case No : Writ Petition (C) 10169 of 2009

Haryana Roadways, Delhi

APPELLANT

Vs

Thana Ram

RESPONDENT

Date of Decision : 09-05-2012

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2012) 05 DEL CK 0133

Hon'ble Judges : P.K. Bhasin, J

Bench : Single Bench

Advocate : Yashpal Rangi, for the Appellant; Virendra Singh, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Bhasin, J.—The petitioner is aggrieved by the Award of the Labour Court whereby the penalty of dismissal from service imposed on the respondent-workman by him was set aside after coming to the conclusion that no fair and proper enquiry was conducted in respect of the misconduct for which he was charge-sheeted and despite opportunity having been given no evidence was adduced before the Court itself to establish the alleged misconduct and his reinstatement in service with full back wages was ordered. The main argument advanced by the learned counsel for the petitioner is that despite the Labour Court having come to the conclusion that the petitioner had failed to establish the alleged misconduct of the respondent-workman and so he was entitled to be reinstated in service but the relief of full back wages could still not have been granted automatically without considering various factors and the judicial precedents of the Apex Court wherein it has been held consistently that the mere fact that the termination of services of some industrial workman is found to be illegal by the industrial adjudicator he does not automatically become entitled to be reinstated in service with full back wages. In support of this submission the learned counsel relied upon one judgment of the Supreme Court in the case of "General Manager, Haryana Roadways vs Rudhan Singh", (2005) Supreme Court

Cases 591.

2. In my view, there is no merit on the aforesaid argument advanced by the learned counsel for the petitioner. This is not a case where the termination of services of the petitioner was found to be illegal because of the non-compliance of the provisions of section 25-F of the Industrial Disputes Act as was the case in the judgment relied upon by the counsel for the petitioner. In the present case, the respondent-workman was ordered to be dismissed from service for some misconduct after the Labour Court had come to the conclusion that the petitioner had failed to establish that he had committed any misconduct for which he was charge-sheeted and proceeded against for disciplinary action and so there was no question of punishing him by denying him the relief of back wages. Denial of back wages to the respondent-workman would definitely amount to punishing him for no fault of his. I, therefore, do not find any merit in this writ petition and the same is hereby dismissed.