

(2009) 03 P&H CK 0222
In the Punjab And Haryana At Chandigarh

Haryana State Agricultural Marketing Board	APPELLANT
Vs	
Ram Sarup and Another	RESPONDENT

Date of Decision : 30-03-2009

Acts Referred:

Citation : (2009) 03 P&H CK 0222

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Augustine George Masih, J.—In the present writ petition, the challenge is to the award dated 02.05.2008 (Annexure-P-6), passed by the Industrial Tribunal-cum-Labour Court, Hisar, wherein the reference has been answered in favour of the workman holding him entitled to reinstatement with continuity of service and other consequential benefits including 40 per cent back wages from the date of issuance of demand notice i.e. 13.07.2004 till the date of publication of the award and full back wages thereafter, till reinstatement.

2. Counsel for the petitioner challenges the award on the ground that the evidence has been produced before the Labour Court to show that an inquiry was held against the workman. The notices issued to the workman has been accepted by him and it has been proved on record that they were indeed received by the workman and he preferred not to join inquiry proceedings. He further contends that a request for change of inquiry officer was also accepted by the management and the inquiry officer was changed.

3. He contends that on the basis of inquiry report submitted by the inquiry officer, the services of the workman were terminated and therefore, the findings as recorded by the Labour Court that no fair and proper inquiry was held, cannot be sustained.

4. He further submits that it has been proved on record that the workman was a habitual absentee and he refers to various periods for which the workman had

absented himself. Accordingly, he submits that in the light of these factual aspects, the findings as recorded by the Labour Court, are not sustainable.

5. On the other hand, counsel for the respondent submits that the management was unable to produce the inquiry report before the Labour Court. The basic document on the basis of which the termination of the workman was ordered, having not been produced before the Labour Court nor the inquiry officer having been produced as a witness, the findings as recorded by the Labour Court, cannot be faulted with. He further submits that the inquiry proceedings on the basis of which inquiry report was submitted reliance whereon has been made by the management for terminating the services of the workman, was not held in accordance with law.

6. I have gone through the records of the case and the impugned award. The contention as raised by counsel for the petitioner about absence of the workman for the various periods as well as serving of the notices upon the workman, cannot be disputed with, however, the Labour Court is right in holding that no fair and proper inquiry has been held against the workman on the ground that no inquiry report was produced by the management before the Labour Court. Moreso, the inquiry officer has not been produced as a witness to support the inquiry proceedings held against the workman. On this technical ground, the Labour Court has not accepted the order of termination passed against the workman as legal and valid. However, the Labour Court has clearly given liberty to the management to proceed against the workman for his willful absence period as is apparent from the observations of the Labour Court in para-23 of the award. Since, no record with regard to inquiry report was produced, the findings as recorded by the Labour Court, cannot be said to be vitiated. In this view of the matter, the contentions as raised by counsel for the petitioner, cannot be accepted.

7. Finding no merit in the present writ petition, the same stands dismissed.