
(1992) 05 P&H CK 0085
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 5638 of 1992

Jagdish Kumar

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 13-05-1992

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (1992) 102 PLR 182 : (1992) 102 PLR 181

Hon'ble Judges : V.K. Bali, J; Amrit Lal Bahri, J

Bench : Division Bench

Advocate : Gurinder Pal Singh, for the Appellant;

Final Decision : Dismissed

Judgement

A.L. Bahri, J.—Jagdish Kumar conductor was employed with Haryana Roadways Sirsa Depot. He has challenged the award made by the Labour Court, Sirsa dated February 28, 1991 Annexure P-5 in this Writ Petition. According to the case of the petitioner, some incident took place on June 11, 1987 on the basis of which General Manager Haryana Roadways passed an order purporting to be of retrenchment of the petitioner. On raising an industrial dispute by the petitioner that termination of his services was illegal; the Labour Court gave the award The order of the General Manager has been partly reproduced in Sub-para (ii) of para 8 on page 4 of the Writ Petition. This indicates that the bus of the petitioner was checked under the supervision of General Manager who was assisted by three Inspectors. An opportunity to defend was also given to the petitioner at the spot but the petitioner could say nothing. The entire previous record of the petitioner showed numerous cases of embezzlement proved against him and, thus, he has held that it was a case of loss of confidence. He dispensed with the enquiry to be conducted with respect to the incident Of June 11, 1987. Taking into consideration the entire previous record, he passed an order u/s 25F of the Industrial Disputes Act retrenching the petitioner on payment of retrenchment compensation of Rs. 1,867.85 P. and Rs. 1,077.60 P. as salary of one month in

lieu of notice.

2. The contention of learned counsel for the petitioner is that the basis for passing the order of retrenchment was the incident of June 11, 1987 and without holding the enquiry with respect to the aforesaid incident, the petitioner could not be punished. Even before the Labour Court, the management had an opportunity of proving the allegations regarding the incident of June 11, 1987 but the management produced no evidence. The award of the Labour Court holding the termination of petitioner as legally justified is liable to be quashed.

3. We have given due consideration to this argument but in the facts of the present case, we are of the view that the same cannot be accepted. The case has to be examined in the light of the observations made by the General Manager Haryana Roadways in his order of retrenchment. No doubt if the order amounts to punishment, the enquiry contemplated under the provisions of the Act to remove the petitioner was to be conducted. However, on going through the order, we find that the basis was not the incident of June 11, 1987 although that fact was noticed as the incident had taken place. However, the basis was the entire previous record of the petitioner. Ever since he joined, there were about 27 incidents of embezzlement for which he was suitably punished i.e. he was warned 9 times, awarded censure 13 times and stoppage of increments 5 times in his total service of 3 years and 4 months, as mentioned in the award of the Labour Court itself. Because of all this previous record, the General Manager came to the conclusion that it was a case of loss of confidence and on the ground of loss of confidence, he passed the Order of retirement awarding the compensation as stated above.

4. Even if, the order of General Manager was to be treated as order of punishment and it required an enquiry to be held with regard to the previous record, which according to the counsel for the petitioner was not held, the fact could be proved before the Labour Court and in the present case the management successfully proved these facts before the Labour Court by producing the entire record and M. W. 1 Mahavir Parsad Clerk, Haryana Roadways, Sirsa. The Statement of petitioner Jagdish Kumar was also recorded before the Labour Court and the cross-examination conducted shows that the petitioner had shown ignorance about the previous punishments and his previous record. In such circumstances, the Labour Court was fully justified in relying upon the statement of M. W. 1 Mahavir Parsad and coming to the conclusion that the order of General Manager retrenching the petitioner on payment of Compensation was justified. Much has been said regarding the terminology used by the Labour Court in the concluding para of the award where the termination of services of petitioner was held to be legal and justified. If the retrenchment order was to be treated as an order of punishment then the terminology used by the Labour Court is perfectly legal and justified.

5. The learned counsel for the petitioner has referred to the decision of Supreme Court in Chandu Lal v. The Management of Pan American World Airways Inc.

1985 (2) S. L. R. 335 and on going through the ratio of the decision, we find that the petitioner cannot get any help. The case of loss of confidence was established and the Supreme Court did not consider it appropriate to reinstate in service the workman. Compensation of Rs. 2 lakhs was awarded to the workman in that case. The contention of learned counsellor the petitioner is that even if it is a case of loss of confidence, it casts stigma and would be order of punishment. We have discussed the above question in this context that even if the order of the General Manager in passing an order of retrenchment is on account of loss of confidence, it was an order of punishment and enquiry was necessary. Since no enquiry was held before the Labour Court, the management could prove loss of confidence and it successfully did so. In the peculiar facts of the present case, we find that no injustice has been done to the petitioner to call for interference under Article 226 of the Constitution. The grant of retrenchment compensation is considered appropriate in the present case. Dismissed.