
(2014) 07 P&H CK 0564

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 7009 of 1992 (O&M)

Jasbir Singh

APPELLANT

Vs

Pepsu Road Transport Corporation

RESPONDENT

Date of Decision : 08-07-2014

Acts Referred:

Citation : (2014) 07 P&H CK 0564

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Harpal Singh Sirohi, Advocate for the Appellant

Judgement

K. Kannan, J.—The writ petition challenges the order passed by the Management terminating the services for willful absence of the petitioner between the period from 01.12.1982 to 02.05.1983. He was terminated through an order on 02.05.1983 after serving him show cause notices to explain why action should not be taken against him. The order of termination was a subject of reference to the Labour Court which through its order dated 08.01.1992 held that the petitioner had not availed to himself the opportunity for explaining his absence and consequently, the termination order cannot be interfered with.

2. The counsel for the petitioner would argue that the Conditions of Appointment and Service Regulations of Pepsu Road Transport Corporation are governed through the regulation of year 1981 and Rule 22 sets out a procedure for enquiry. Clause (c) states as under:-

c) In case the work-man fails to submit his explanation within the prescribed time or extended time allowed to him or where the explanation submitted by him is not found satisfactory, the employer or the manager or the person authorised by the employer or by the manager shall appoint a person to hold an enquiry and issue a notice containing the name of the enquiry officer and the date, time and place of the enquiry.

Provided that in a case where the workman admits in writing the charges levelled

against him and the employer is satisfied that such an admission is voluntary, it shall be open to the employer or the manager to award any one of the punishments provided in Clause 24 without holding any enquiry.

3. The emphasis by the petitioner is that even if he must be taken to have not given a reply, the rule would require a person to be appointed to hold an enquiry and issue notice containing the name of the Enquiry Officer and the date, time and place of the enquiry. The proviso will operate only in a case where the workman admitted in writing to the charges, in which case alone the constitution of an enquiry could be dispensed with. There was no letter of admission on the part of the petitioner that he had been willfully absented himself without getting his leave sanctioned. I do find that there is a violation of the rule. As it turns out, the petitioner was reported to have put in 12 years of service, drawing Rs. 550/- per month at the time when his services were terminated. If the case had been taken up and disposed of immediately, it should have been possible to put the clock back and directed a full-fledged enquiry. It is a case of termination of services of Clerk and reinstatement at this point of time after a gap of 22 years does not make for any benefit to either party. If he had already put in 12 years of service and another 22 years have also passed, he should have also reached the age of superannuation. Interest of justice would be best served taking into account the fact that he had 12 years of service at the time when action was initiated, I provide for a compensation by directing payment of 25% of backwages. This follows the procedure adopted by the Supreme Court in *State of Maharashtra and Another Vs. Sarva Shramik Sangh, Sangli and Others*, The calculation shall be till the date of superannuation, if the employee had reached the age of superannuation or date of judgment, if he had not reached the said age. The order of termination is not interfered with, but it is superimposed by an order directing compensation to be paid to the petitioner by the employer-Pepsu Road Transport Corporation as referred to above within a period of 12 weeks failing which the amount directed shall also attract interest at 9% from the date of the judgment.

4. The writ petition is ordered on the above terms.