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**(2013) 05 P&H CK 0220**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 7660 of 1997**

Prem Singh

APPELLANT

Vs

Presiding Officer and Others

RESPONDENT

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**Date of Decision :** 17-05-2013

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227  
Industrial Disputes Act, 1947 — Section 10(1)(c)

**Citation :** (2013) 171 PLR 401

**Hon'ble Judges :** G.S. Sandhawalia, J

**Bench :** Single Bench

**Advocate :** Rajbir Sehrawat, for the Appellant; K.C. Bhatia, Addl. A.G., Haryana for Respondent Nos. 2 to 4, for the Respondent

**Final Decision :** Dismissed

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## Judgement

G.S. Sandhawalia, J.—Challenge in the present writ petition filed under Articles 226 and 227 of the Constitution of India is to the termination order dated 19.08.1992 (Annexure P-5) passed by respondent No. 3-General Manager, Haryana Roadways, Karnal and the award dated 24.12.1996 passed by the Labour Court, Panipat whereby, the said termination order was upheld. The petitioner, who was appointed as Conductor in the year 1976, while on duty on 14.09.1990 on bus No. 4558 which was plying on Panipat Badauda route was checked by two Inspectors and two Sub Inspectors and it was found that he had issued old tickets to the passengers and thus, embezzled an amount of Rs. 55/-. Accordingly, he was charge sheeted on 18.09.1990 to which he gave the reply on 15.10.1990 and an Inquiry Officer was appointed on 19.02.1991. The Inquiry Officer, vide his report dated 07.04.1992, came to the conclusion that the allegations levelled against the petitioner got proved that he had embezzled a sum of Rs. 55/-. Accordingly, show cause notice dated 07.05.1992 was issued by respondent No. 3 as to why the petitioner's services may not be terminated and in case he wanted to give any representation, his case would be considered. The petitioner, accordingly, submitted his representation dated 05.08.1992 and after

taking into account the said representation, the impugned order dated 19.08.1992 was passed whereby respondent No. 3 came to the conclusion that it was not proper to retain such an employee in the service and on account of putting him guilty of the charge, the services be terminated with immediate effect. The petitioner raised industrial dispute against the termination and the State of Haryana referred the dispute to the Labour Court, Panipat u/s 10(1)(c) of the Industrial Disputes Act, 1947 hereinafter. The Labour Court, Panipat came to the conclusion that the management had conducted a fair and proper inquiry and, therefore, the termination of the petitioner was in accordance with law and the petitioner was not entitled to any relief. Resultantly, the present writ petition has been filed, challenge the said orders, as noticed above.

2. Counsel for the petitioner has vehemently contended that the Labour Court had to see whether the Inquiry Officer had proceeded in a proper manner and not in an arbitrary manner and whether the process of arriving at the conclusion that the petitioner was guilty of misconduct had not been rightly done by the Inquiry Officer. The Inquiry Officer had to perform a quasi judicial function and give valid reasons for arriving at its conclusions, which is missing in the present case. It was accordingly urged that it was not a proper inquiry and has to be set aside since the Inspector was aggrieved against the petitioner and he had collected old tickets on earlier occasion on 12.09.1990. Thus, it was submitted that the petitioner had now reached the age of superannuation and if the order of termination was set aside, he would be entitled for his retiral dues and was not liable to be reinstated. Reliance was placed upon the judgment of the Hon'ble Apex Court in Anil Kumar Vs. Presiding Officer and Others, and judgment of this Court in Dr. Avtar Singh v. State of Punjab and others, 1996 (2) R.S.J. 273.

3. State, on the other hand, defended the orders saying that there was no mala fides of the checking staff or the Inquiry Officer and nothing had been brought in defence before the Inquiry Officer that the officials were inimical towards the petitioner. The Inquiry Officer was not a Judicial Officer and had allowed the petitioner to submit his witnesses and had given the opportunity to cross examine the witnesses. It was further pointed out that in the written statement, it has been specifically mentioned that the record of the petitioner was blemished and he had been awarded punishment for 18 times apart from the order of termination.

4. After hearing counsel for the parties and perusing the record, it is clear that the Labour Court has come to the conclusion that the inquiry had been conducted in its proper manner and opportunity of hearing had been provided to the petitioner and there was no violation of principles of natural justice. Even the request of the workman for changing the Inquiry Officer had been accepted by the management and he was given proper opportunity to cross examine the witnesses and the workman had also been given opportunity to lead evidence in defence. There was no lacuna in inquiry proceedings and accordingly, it was held

that the workman had been charged with the misconduct of embezzlement and had been rightly terminated from services. Perusal of the inquiry report would go on to show that the department examined as many as two Inspectors namely Sh. O.P. Umani and Ram Sarup alongwith two Sub Inspectors namely Sh. Ramesh Chand Sehgal and Sh. Chaman Lal who were part of the checking team which had stopped the bus and noticed that the petitioner had issued old tickets to 18 passengers. The grouse of the petitioner that he has been falsely implicated and that there was a conspiracy since the old tickets had earlier been collected from him, does not cut much ice to this Court since the four officials have been examined by the management before the Inquiry Officer and the petitioner had failed to even examine any official from his department to show that the said persons were inimical towards him and as to why they have collected old tickets on an earlier occasion. All the four officials could not be prejudiced against the petitioners in such a manner that they would hatch a conspiracy and get him dismissed in such a manner as now has been done. The two defence witnesses who have been produced by the petitioner belong to his village and, therefore, the submission of the counsel that their statements were not properly considered by the Inquiry Officer or by respondent No. 3 is but to be rejected since respondent No. 3 noticed that the statement of both these witnesses did not tally with each other, there was a contradiction inter se between their statements. The General Manager, after issuing the show cause notice had also personally heard the petitioner and thereafter passed the termination order and, therefore, principles of natural justice have been complied with by the Labour Court. Reliance upon Anil Kumar's case (supra) is misplaced in the facts and circumstances of the case since in that case, the Hon'ble Apex Court came to the conclusion that the inquiry report itself could not have been acted upon since it did not even discuss the evidence of the witnesses and a mere recording had been done that the charges were proved. In the present case, the Inquiry Officer had diligently recorded the statements of all the four officials who had checked the bus and also the statements of the defence witnesses which the petitioner had produced and thereafter had recorded a finding that the allegation stood proved. Thereafter, the Inquiry Officer had also issued a proper show cause notice to the petitioner and heard him in person and come to the conclusion that no conclusive proof had been given by the petitioner that there was some conspiracy by the Inspectors against him and after rejecting the defence version, come to the conclusion that the termination of the petitioner would be proper and retaining him in service would not be appropriate. Similarly, in Dr. Avtar Singh's case (supra) it has been held that judicial review would be permissible only where the Courts find that the proceedings against the delinquent employee was inconsistent and the principles of natural justice had been violated.

5. In the present case, it has come on record that the required procedure had been followed and the petitioner has been given all proper opportunities to defend himself and thus, there is no valid ground to interfere in the well

reasoned order of the Labour Court. It is a settled principle that the scope of interference under Articles 226 and 227 of the Constitution of India against the order of the Tribunal is there only where there is manifest error apparent on the face of the proceedings and where there is clear ignorance or disregard to any provisions of law. In the present case, the counsel for the petitioner has not been able to demonstrate that the writ Court could interfere with the present award. A Full Bench of this Court in *The State of Haryana and Others Vs. Ram Chander*, had held that the evidence of the checker where he found that the passengers were travelling without tickets at the time of checking could not be considered as hearsay evidence. It was accordingly held that there was no bar against the reception of such evidence by the domestic Tribunals and the extent to which the said evidence may be deceived. The submission of the employee that such evidence could not be taken into consideration was brushed aside and the observations made by a Division Bench in *Tarlochan Singh v. State of Punjab and others*, 1975 Current Law Journal 1 were over ruled. It was also held that where the disciplinary authority is agreeing with the report of the Inquiry Officer, it cannot be said as a matter of law that it is bound to record reasons in each and every case. A three-Judge Bench of the Hon''ble Apex Court in *State of Haryana and Another Vs. Rattan Singh*, also held to the same affect that merely statements of passengers would not hold that the procedure followed was invalid. Accordingly, it was held that the evidence of the Inspector of the flying squad in operation which was relevant to the charge levelled against the employee and accordingly, the termination which had been set aside by the trial Court was restored.

6. Thus, keeping in view the above cumulative facts, no fault can be found in the order of the respondents terminating the services which were duly upheld by the Labour Court. Accordingly, there is no merit in the present writ petition and the same is dismissed.