
(2000) 10 P&H CK 0025

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 5331 of 1983 and 1227 of 1984

State of Punjab

APPELLANT

Vs

Jagan Singh
 Jagan Singh Vs Presiding Officer

RESPONDENT

Date of Decision : 30-10-2000

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 11

Citation : (2000) 10 P&H CK 0025

Hon'ble Judges : S.S. Sudhalkar, J

Bench : Single Bench

Advocate : Mr. P.C. Chinna, Deputy A.G, for the Appellant; Mr. J.M. Sethi, for the Respondent

Judgement

S.S. Sudhalkar, J.—Both these writ petitions bearing Nos. 5331 of 1983 and 1227 of 1984 arise out of the same award and are heard together and hence are being disposed of by this common judgment. For the sake of convenience, I shall refer to the parties and documents as contained in C.W.P. No. 1227 of 1984.

2. The petitioner (hereinafter referred to as the "workman") was working as a Conductor in the Punjab Roadways. It was alleged that while on duty as such on 5.3.1980, his bus was checked by the Roadways Inspector and it was found that 13 passengers were travelling without tickets, though the workman had charged fare from them and, therefore, he has de-"frauded the employer to the tune of Rs. 27.30. Enquiry was held against the workman and his services were terminated. He took recourse to the provisions of the Industrial Disputes Act (hereinafter referred to as the "Act") and the Labour Court substituted the punishment of dismissal from service to that of loss of 70 per cent backwages. He was ordered to be reinstated. Aggrieved by this award, the State has filed C.W.P. No. 5331 of 1983 and the workman has filed C.W.P. No. 1227 of 1984.

3. I have heard learned counsel for the parties.

4. So far as the charge against the workman is concerned, it has been held to have been proved even by the Labour Court. Counsel for the workman, though argued strenuously, could not show as to how the charge could not be upheld. The Labour Court has also held that full opportunity was given to the workman during enquiry. The finding of the Labour Court is not shown to be erroneous. Therefore, the order of the Labour Court upholding the finding that the charge is proved cannot be disturbed.

5. The next question to be seen is regarding the punishment awarded to the workman. The allegations against the workmen which have been proved in the departmental enquiry are serious in nature. Charge of embezzlement cannot be said to be not serious. According to the case of U.P. State Road Transport Corporation Vs. Subhash Chandra Sharma and Others, , the lighter punishment cannot be given in a serious case by invoking power u/s 11A of the Act. However, in the present case the workman has been reinstated after the award of the Labour Court and I am told by learned counsel for the workman that he was reinstated on 13.8.83. In view of this position, it will be not only not proper but will be harsh to reinstate the order of punishment given by the employer to the workman. In view of the special circumstances of this case, I do not find it proper to interfere with the order of reinstatement passed by the Labour Court.

6. The Labour Court has awarded 30 per cent back-wages and curtailed 70 per cent backwages. I find that grant of 30 percent backwages is not justified keeping in view the nature of the charge proved against the workman.

7. As a result, petition filed by the workman bearing No. 1227 of 1984 is dismissed and the petition bearing No. 5331 of 1983 filed by the employer- State is partly allowed and order of reinstatement made by the Labour Court is maintained. However, the workman shall not be entitled to any backwages.

8. Order accordingly.