
(1992) 03 P&H CK 0111
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3110 of 1992

The Punjab Dairy Development Corporation Limited	APPELLANT
Vs	
The Presiding Officer Labour Court and Another	RESPONDENT

Date of Decision : 16-03-1992

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 10

Citation : (1994) 1 ILR (P&H) 322 : (1992) 102 PLR 352

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

Bench : Division Bench

Advocate : P.S. Patwalia, for the Appellant;

Final Decision : Dismissed

Judgement

V.K. Bali, J.—The Punjab Dairy Development Corporation Ltd., through its Managing Director, has challenged the award of the Labour Court rendered on 10th January, 1991, which was published in the Gazette dated August 2, 1991 (Annexure P-8) vide which Jagjit Singh, workman was reinstated with continuity of service and was paid back wages with effect from September 23, 1977, less wages that he had earned Milkfed Hoshiarpur Milk Producers Union Jalandhar and at Baghdad.

2. The brief facts that have given rise to this petition need to be mentioned first. The Punjab Government referred the industrial dispute to Labour Court Amritsar and the aforesaid reference was as to whether the termination of the services of Jagjit Singh, workman, justified and in order ; if not to what relief/exact amount of compensation was he entitled. The case of respondent-workman before the Labour Court was that he was working as Senior Technical Assistant at Milk Chilling Centre, Fatehgarh Churian on a permanent post and his services were terminated on September 23, 1977 without service of notice or charge-sheet ; that he was appointed to the service in September 1970; that he was getting a pay of Rs. 425/- p. m. plus allowance thereon. He challenged the aforesaid order

of removal and the management in the appeal preferred by him passed an order directing de novo enquiry against him. The enquiry officer after conducting de novo enquiry against the workman exonerated him of all the charges. The Board of Directors of the petitioner company, however, in its meeting held on 22nd November, 1979, considered the matter and expressed its displeasure with the enquiry officer with regard to the manner in which he had conducted the enquiry and exonerated the workman. Thereafter the appeal preferred by the workman in which the order of de novo enquiry was passed was dismissed and a resolution was passed on 6th February, 1980 removing the workman from service on the basis of the enquiry reports that came into existence against him earlier.

3. The cause of the workman was resisted by the petitioner management on the ground that he had committed certain acts of misconduct and charge-sheet dated July 2, 1976, containing five charges was issued against him. One Sh. Amrik Singh held the inquiry and found charges No. 1, 2 and 4 proved. The General Manager, on receipt of the enquiry report, recommended punishment against the workman.

4. Meanwhile, the workman had committed some other acts of misconduct as well and for the said misconduct committed by him, another charge sheet dated January 25, 1977, containing seven charges, was issued to him. One D. Nirban Singh was appointed the enquiry officer and he too held charges No. 1 to 3, 6 and 7 proved against him. The General Manager again recommended the punishment and vide order dated September 23, 1977, the petitioner-management removed the workman from service by recording that the case and magnitude of the acts of misconduct alleged and proved against him were of serious nature.

6. Admittedly, the respondent/workman filed an appeal before the Chairman of the Corporation. Admittedly as well, the Chairman ordered de novo enquiry and Sh. S. S. Bagga who had earlier recommended punishment on two counts held de novo enquiry that the workman was held not guilty of any charge that was the subject-matter of earlier two enquiries held by two different persons as has been narrated above. Even though such was the position, the management chose to do away with the services of the workman/respondent on the basis of earlier two enquiries. It is this action of the management which was taken exception to by the workman by raking up the matter through a reference u/s 10 of the Industrial Disputes Act.

6. The Labour Court, after recording evidence of the parties came to the conclusion that in view of the fact that the previous two enquiries held against the workman were washed off, the result of the said enquiries could not be made a valid ground to terminate the services of the workman and inasmuch as the verdict of the third enquiry went in favour of the workman, the action taken by the petitioner-management was unjustified. It is against this award of the Labour Court that the present writ petition has been filed.

7. Learned counsel for the petitioner-management contends that the Labour Court did not take into consideration the fact that the removal order passed by the Managing Director was not set aside in appeal preferred by the respondent-workman and that all interim orders passed during pendency of the appeal would automatically become non-existent at the time of final disposal of the appeal. He further contends that in view of the fact that the appeal was late dismissed, the management was well within its right to take action against the workman on the basis of the enquiry reports that came to be recorded against him. The contention raised by the learned counsel have, in our view, no substance. The order with regard to conducting denovo enquiry, even though during pendency of the appeal, in the facts and circumstances of this case, cannot be said to be an interim order, the life of which may be limited till pendency of the appeal. In fact, on passing the aforesaid order, the appeal of the workman had been rendered practically infructuous and instead of dismissing the same on a later date, the same ought to have been dismissed as such on the same day when the order with regard to de novo enquiry was passed. Any other conclusion would result into complete injustice to the workman who would be obviously deprived of a right to challenge the order of dismissal of his appeal. Having given to understand that there will be a de novo enquiry against him with the obvious result that the effect of earlier enquiries is washed off, the management which admittedly conducted a de novo enquiry cannot, in the facts and circumstances of the present case, be permitted to take a stand at this stage that the appeal of the workman having been dismissed, interim order with regard to the de novo enquiry automatically fizzles out. Inasmuch as the action against the respondent/workman has been taken on the strength of the enquiry reports, the effect of which stood washed off, and inasmuch as the result of third enquiry that was conducted against him with regard to all the charges of the first two enquiries having gone in his favour, the orders passed by the Labour Court cannot be questioned. The order of dismissal was certainly illegal and the Labour Court, on the facts aforesaid, came to the right conclusion. Finding no merit in this writ petition, we dismiss it in limine.