
(2013) 08 P&H CK 0275

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 828 of 1991 (O and M)

The Punjab State Cooperative Agricultural Development Bank
Limited

APPELLANT

Vs

Presiding Officer and Another

RESPONDENT

Date of Decision : 06-08-2013

Acts Referred:

Citation : (2013) 08 P&H CK 0275

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Jaishree Thakur, for the Appellant; K.S. Khehar, for the Respondent

Final Decision : Dismissed

Judgement

K. Kannan, J.—The writ petition challenges the order of reinstatement issued by the Labour Court, Chandigarh on 09.04.1990. In the proceedings of the authorities in a domestic enquiry, the workman was guilty of charges attributed to him but the Labour Court set aside the finding. The case is being brought to this Court after nearly 2 decades after the dismissal from the Labour Court directing reinstatement. There had been grave allegations imputing offences of forgery, misappropriation of funds and some corrupt practices alleged to have been indulged by the workman. The workman had complained that: (i) the documents relied on by the Management and which were entrusted to the Enquiry Officer had not been made available to the workman and, therefore, he was deprived of entering a valid defence; (ii) the Enquiry Officer was biased and he was himself responsible for framing the chargesheet before the constitution of the enquiry; (iii) sufficient opportunity had not been given for examination of witnesses and he was set ex parte even when there was a request for an adjournment pointing out to the illness of his mother at Lucknow and could not participate for hearing in December 1982 when the enquiry was in progress; (iv) two management-witnesses, who had supported the workman in the evidence, were served with suspension orders and literally, all the witnesses were

terrorized to tow the management line and (v) the appointment of the Managing Director was also vitiated and he did not have the competency to pass an order of removal.

2. While examining these objections brought before the Labour Court, the Labour Court found in favour of the Management only the last point adverted to above regarding the competency of the Managing Director to pass the order. The Labour Court held, however, on all other aspects that there had been a serious breach in the principles of natural justice before and during the course of proceedings before the Enquiry Officer. The Labour Court referred (i) to the relevant statutory rules, namely, Rule 8(3) and (4) of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 that obligated the Management to place the substance of imputation, list of documents and the list of witnesses to be furnished to the workman. While his prayer for copies of documents had been denied, even a permission to inspect the documents with the notings in the files were denied to the workman. (ii) The Labour Court noticed that two witnesses-Jagjit Singh and Mehar Singh did not support the stand of the Management and the Enquiry Officer himself had literally cross-examined the witnesses exhibiting a sense of bias. Though an act of participation of the Enquiry Officer, I will not agree would amount to any bias, the conduct of the Management immediately taking action for suspension of the witnesses even during the progress of enquiry before the Enquiry Officer, the Labour Court ruled, clearly showed that the enquiry was being conducted in a vitiated atmosphere. (iii) The inability of the workman to attend the hearing on 22.12.1982 was perceived by the Labour Court to be another instance of needless haste when the workman had applied for an adjournment citing the illness of his mother and his absence at Lucknow on a telegraphic message received by him and his plea for adjournment made before the adjourned enquiry date. (iv) The offer of the Management to supply all copies of document after the submission of the enquiry report and before imposition of punishment was meaningless attempt to cover their own lapses and it could not be a substitute for what the workman was at all times pleading for that he should have been given the copies of all documents before the commencement of the enquiry before the Enquiry Officer and not after the report. With all the fallibilities as exposed by the Labour Court, I have no reason to find any justification for modifying the order in making any intervention. If the Labour Court was, therefore, directing a reinstatement with back wages, it was justified in doing so. I do not find any merit in the writ petition for consideration as worthy of challenge. The writ petition is dismissed with costs. Counsel's fee Rs. 10,000.