

Rajpal Vs. Presiding Officer, Labour Court and ors.

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Court : Punjab and Haryana

Decided On : Jan-13-2000

Reported in : (2000)125PLR342

Judge : M.L. Singhal, J.

Acts : [Constitution of India](#) - Articles 12 and 226; [Industrial Disputes Act, 1947](#) - Sections 10

Appeal No. : Civil Writ Petition No. 3830 of 1998

Appellant : Rajpal

Respondent : Presiding Officer, Labour Court and ors.

Advocate for Def. : U.K. Agnihotri, Adv. for Respondent Nos. 2 and 3

Advocate for Pet/Ap. : Neena Madan, Adv.

Disposition : Petition dismissed

Judgement :

M.L. Singhal, J.

1. Rajpal was Laboratory Assistant in Milk Plant Bhadurgarh. He was dismissed from service by the Managing Director of Haryana Dairy Development Co-operative Federation Limited (hereinafter referred to as 'the Federation') vide order

Annexure P.6 dated 26.11.1991, on the charge that he had claimed bogus Leave Travel Concession for journey from Ballabhgarh to Kanyakumari during the period 25.7.1989 to 11.8.1989 by submitting an affidavit containing false information and forged travel certificate/receipt purported to have been issued by the Haryana Tourism Corporation. He had, thus, defrauded the Federation to the tune of a sum of Rs. 11,375/- by putting forth false Leave Travel Concession claim for himself and 6 other members of his family for having travelled from Ballabhgarh to Kanyakumari and back. He was charge-sheeted. He submitted reply to the charge-sheet. Reply was considered but was found unsatisfactory. He was put on regular enquiry. The Enquiry Officer submitted his report dated 31.8.1991 to the Federation. The Enquiry Officer found him guilty. A show cause notice was served upon the delinquent. He gave reply to the show cause notice and was dismissed from service. He raised an industrial dispute questioning his dismissal from service. The Labour Court-II, Faridabad adjudicated upon the dispute and found vide orders Annexures P-16 and P-17 dated 7.11.1994 and 12.9.1995, respectively, that his dismissal was quite in order and that the enquiry had been conducted in a fair and proper manner by the Federation and the punishment of dismissal was not disproportionate to the gravity of the charge proved against him. Prior to raising the industrial dispute questioning his dismissal from service, he served demand notice dated 31.12.1991 under Section 2A of the Industrial Disputes Act, assailing his dismissal from service on various grounds. On failure of re-conciliation proceedings, the matter was referred to the Haryana Government and a reference was made to the Labour Court under Section 10 of the Industrial Disputes Act for adjudication as to whether his dismissal from service was legal and justified, if not, to what relief is he entitled to? Vide Order Annexure P-17 the Labour Court-II, Faridabad declined the reference saying that a fair and proper domestic enquiry had been conducted. Vide the same order i.e. dated 12.9.1995, the Labour Court-II, while dismissing the reference also held that punishment imposed commensurate with the gravity of the charge of which he had been found guilty.

2. Rajpal, petitioner, has prayed for the quashing of the awards of the Labour Court Annexures P-16 and P-17 through this Civil Writ Petition filed by him under Articles 226/227 of the [Constitution of India](#). It has been alleged that the Enquiry

Officer dis-regarded the principles of natural justice inasmuch as he had asked for certain documents vide letter Annexure P-3, which were material for his defence and cross examination of the witnesses of the Federation. Those documents were not supplied. The report of the Enquiry Officer was biased and without considering his reply to the show cause notice, the petitioner was dismissed from service. The Enquiry Officer examined Shri K.K. Sharma, in-Charge Administration as a witness, though his names did not figure in the names of witnesses. Certificate/letter of Public High School relied upon also did not figure in the list of documents attached with the charge-sheet. Evidence of Shri K.K. Sharma and the certificate of the Public High School, were wrongly and illegally relied upon and the writer of the certificate had not been examined nor the attendance register of the school showing the entries with regard to the presence of the son of the petitioner, was produced. In the absence of production of in-charge of the school register for cross-examination, the said certificate could not be relied upon, and, as such, the enquiry was illegal and against the principles of natural justice. The petitioner wrote a letter dated 10.7.1991, Annexure P-8, for summoning the in-charge of the school, but this letter was not considered at all. Enquiry Officer disbelieved the evidence produced by the petitioner, which was reliable and should not have been disbelieved. The Enquiry Officer illegally and wrongly held that on the travel certificate/receipt produced by him which had been issued by the Haryana Tourism Corporation, the signatures of the officials were forged. The petitioner assailed his dismissal from service brought about by the Federation on the ground that the dismissal had proceeded on the basis of the report of the Enquiry Officer which is in violation of the principles of the natural justice having ignored reliable evidence and having considered unreliable evidence.

3. The respondents No.2 and 3 contested this writ petition urging that the Federation is not amenable to the writ jurisdiction of this Court as it is a registered Society under the Haryana Co-operative Societies Act, 1984. The Government has no financial control as the Federation raised loans from the National Dairy Development Board which are re-payable in instalments. The award was delivered by the Labour Court on 12.9.1995 while this writ petition was filed in May 1998. The writ, thus, suffers from delay and laches. It was denied that the Enquiry Officer did not conduct the enquiry in observance of the rules of natural justice and fair

play. He had provided ample opportunity to the petitioner to produce documents/evidence in his defence. He could have asked for the documents from the Federation if he felt that those documents would conduce to his defence better. Every evidence whether for or against was considered by the Enquiry Officer. The amount on account of fare charges from Ballabhgarh to Kanyakumari was required to be deposited by the petitioner with Haryana Tourism Corporation before the journey was undertaken but Annexure P-12 shows that the amount had been deposited with Haryana Tourism Corporation after about a month from the date of completion of the journey. The Additional Managing Director, Haryana Tourism Corporation informed the Managing Director of the Federation vide letter Annexure P-13 about the fact that the claims of Shri Raj Pal, Laboratory Assistant, Shri Bhanwar Singh, Clerk, and Shri Om Parkash, SM. were bogus and the signatures of the officials on the travel certificate had been forged. Bus Nos. HPZ-533, HPZ-342 and DEP-5388 was not sent on LTC at all by their contractor.

4. The charge against Rajpal was that he and his family had not undertaken the journey from Ballabhgarh to Kanyakumari during the period 25.7.1989 to 11.8.1989, but he submitted L.T.C claim for himself and other members of his family. In respect of the L.T.C. claim he also submitted an affidavit containing information which was found to be false. He produced forged travel certificate/receipt alleged to have been issued to him by the Haryana Tourism Corporation. He. thus, defrauded the Federation while submitting claim of L.T.C. for having undertaken the alleged journey from Ballabhgarh to Kanyakumari. When the L.T.C. claim of Shri Rajpal was felt to be doubtful, the matter was taken up with the Haryana Tourism Corporation. The Haryana Tourism Corporation vide their letter No. HTC/CS/90/35017 dated 24.9.1990 informed that the L.T.C. claim of Shri Rajpal was bogus as bus No.HPZ-533 had not been sent by their contractor at all. The case of Rajpal was that he got reservation on 22.7.1989 from M/s Bright Tours and Travels, (Regd). He performed journey as per programme given in the certificate of Haryana Tourism Corporation, Chandigarh, delivered to him by the said M/s. Bright Tours and Travels (Regd) who was the contractor of Haryana Tourism Corporation, and the Enquiry Officer found his claim to be bogus. The Enquiry Officer found that the delinquent official had not undertaken the journey at all alongwith the members of his family. The Enquiry Officer went

through every facet touching the charge drawn against him. Rajpal had claimed L.T.C. for his son who was shown attending school during all those days.

5. Interference with the decision of departmental authorities can be permitted while exercising jurisdiction under Article 226 of the [Constitution of India](#) if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry or if the decision of the enquiry is vitiated by considerations extraneous to the evidence and merits of the case, or if the conclusion made by the authorities on the very face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion or grounds very similar to the above. The settled legal position is that if there is some legal evidence on which the findings can be based then adequacy or even reliability of that evidence is not a matter for canvassing before the High Court in a writ jurisdiction filed under Article 226 of the [Constitution of India](#). In *State of Andhra Pradesh v. S. Sree Rama Rao*, 1964(3) S.C.R. 25, the Supreme Court has stated so and further observed thus:

'The High Court is not constituted in a proceeding under Article 226 of the Constitution as a Court of appeal over the decision of the authority holding departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf and whether the rules of natural justice are not violated. Whether there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence.'

6. It is, thus, clear that it is none of the functions of this Court to go into the sufficiency or otherwise of the evidence relied upon by the Federation to say that the charge stands sustained. It is within the jurisdiction of the Federation to say that the charge stands sustained on the basis of the evidence which it believes. The Federation is an instrumentality of the State and as such, is amenable to the

writ jurisdiction of this Court.

7. Faced with this position, learned counsel, for the petitioner submitted that the petitioner had put in about 20 years' of service and, therefore, the order of compulsory retirement should have been passed against him.

8. It is true that the Court may go into the quantum of punishment imposed upon the delinquent and in a fit case the Court can turn down the punishment if it feels that the punishment imposed is disproportionate to the misconduct imputed to the delinquent. In this case, the misconduct imputed to the delinquent was of a grave nature. He is said to have swindled the money belonging to the Federation. He did not undertake journey at all. Still, he claimed false L.T.C. for him and his family to the tune of Rs. 11,375/-. He, thus, played foul with the Federation. It was a case of blatant cheating with the Federation. In a welfare state like ours where the Federation has introduced many facilities for the welfare of its employees. If the employee bungles with the Federation and swindles its money, no leniency should be shown to such an employee. Showing him leniency would be putting premium on his depraved mentality.

9. For the reasons given above, this writ petition fails and is dismissed.

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