



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 7980/2002
URN: CW / 12304U / 2002

Fakir Mohammad son of Sh. Deen Mohammad, aged 49 years,
Resident of House No.2-Tha-1, Vigyan Nagar, Kota

-----Petitioner

Versus

1. Judge Labour Court Kota (Rajasthan)
2. Manager, Instrumentation Limited, Kota

-----Respondents

For Petitioner(s)	:	Mr. K.C. Sharma
For Respondent(s)	:	Mr. N.K. Maloo, Sr. Adv. with Mr. Pratyush Sharma

HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL

Order

06/07/2026

By way of this writ petition, the petitioner-workman (for short, 'workman') has assailed the legality and validity of the award dated 21.09.2001 passed by learned Labour Court, Kota (for short, 'learned Labour Court') in LCR No.75/1992 whereby, while dismissing the claim petition filed by the workman, the order dated 16.07.1990 terminating his services, was upheld.

The relevant facts in brief are that the workman filed a statement of claim stating therein that he was appointed as Helper on 22.10.1971 and was extended promotion, as and when the same fell due. It was stated that when he was posted as Sheet Metal Worker Grade-B, he was served with a charge-sheet vide memorandum dated 19.08.1988 alleging wilful absence from duty and prior punishment. It was further averred that he responded to



same stating that his absence was on account of his family obligations as also on account of illness of members of his family. Alleging that conducting the inquiry without following the principles of natural justice, the order impugned dated 16.07.1990 was passed terminating his services which was bad in law, it was prayed that the order terminating his services be quashed and set aside and the respondent be directed to reinstate him with back wages.

In its reply, the respondent No.2/employer (for short, 'employer'), admitted the facts qua appointment of the workman as Helper and his working as Sheet Metal Worker Grade-B at the time of termination of his services. However, rest of the contents of the statement of claim were disputed and denied. It was averred that the workman was given full opportunity to defend himself and the inquiry was conducted strictly in conformity with the principles of natural justice. It was stated that the penalty imposed vide order impugned dated 16.07.1990 was commensurate with the gravity of charges found to be proved against him. It was, therefore, prayed that the statement of claim be dismissed.

The learned Labour Court, after hearing the respective parties and examining the evidence on record, vide its award dated 21.09.2001, answered the reference against the workman and dismissed the claim petition, as supra.

Assailing the award, learned counsel for the workman contended that the learned Labour Court did not return any finding as to fairness of the domestic inquiry conducted against him. Further, inviting attention of this Court towards the provisions



of Section 11A of the Industrial Disputes Act, 1947 (for short, 'Act of 1947'), he contended that in view of total length of his service, i.e., 19 years, the punishment of termination of service was not commensurate with the gravity of charges levelled against him vide memorandum dated 19.08.1988 and it deserves to be suitably reduced to a lighter punishment. Lastly, he contended that he being a 'protected workman', his services could not have been terminated. He, therefore, prayed that the writ petition be allowed, the award impugned dated 21.09.2001 as also the order impugned dated 16.07.1990 be quashed and set aside or in the alternative, a lighter punishment be substituted for the punishment of termination of service.

Per contra, learned Senior Counsel for the employer, opposing the submissions, contended that the learned Labour Court has, vide award impugned dated 21.09.2001, dismissed the claim petition appreciating the evidence of the respective parties which warrants no interference of this Court under its limited writ jurisdiction. He, therefore, prayed for dismissal of the writ petition.

Heard. Considered.

The undisputed facts are that the workman was appointed as Helper on 22.10.1971 and while working as Sheet Metal Worker Grade-B, he was served with a charge-sheet vide memorandum dated 19.08.1988 containing following charges:

"1. पिछले तीन वित्तीय वर्ष 1985-86, 86-87 एवं 87-88 में अन्य अवकाशों के अतिरिक्त आप औसतन 176 दिन अपनी ड्यूटी से अनुपस्थित / अवैतनिक अवकाश पर रहे हैं। इनमें से वर्ष 1987-88 में आप 193 दिन अनुपस्थित / अवैतनिक अवकाश पर रहे हैं।



2. पूर्व में भी आप ड्यूटी से अनुपस्थित रहने के आदी रहे हैं जिसके लिए आपकी इस आदत में सुधार लाने की दृष्टि से सलाह पत्र एवं अन्य दण्ड दिये गये हैं।

जिनका विवरण निम्न प्रकार है:-

- (i) पत्र क्रमांक पीएण्डए/आईआर/41-163/81 दि. 01 मई, 1981 द्वारा सलाह दी गयी।
- (ii) पत्र क्रमांक पीएण्डए/आईआर/10/84-85 दि. 10/09/84 द्वारा वित्तीय वर्ष 1983-84 में 11/12 दिन अनुपस्थित एवं 6 दिन अवैतनिक अवकाश पर रहने पर सलाह दी गई।
- (iii) अप्रैल, 86 से दिसम्बर, 86 तक 168 दिन अनुपस्थित रहने के लिए दो वार्षिक वेतन वृद्धियां असंचयी प्रभाव से पत्र क्रमांक पीएण्डए/आईआर/12-03-87 दिनांक 27 मई, 1987 द्वारा रोकी गयी।
- (iv) आपके ड्यूटी से अनुपस्थित/अवैतनिक अवकाश पर रहने के कारण वर्ष 1983/84 एवं 1985/86 के गोपनीय प्रतिवेदन में भी एडवर्स रिमार्क्स दिये गये जिसके बारे में आपको समय-समय पर सूचित किया जाता रहा है। "

After conducting a domestic inquiry, his service was terminated vide order dated 16.07.1990; the subject matter of challenge before the learned Labour Court. As per the findings recorded by the learned Labour Court, the inquiry was conducted by the Inquiry Officer after giving the workman sufficient opportunity to defend himself in conformity with the principles of natural justice but, he deliberately did not participate in the same. On that premise, the inquiry process was held to be fair and proper. Except making a bald assertion that the inquiry was not fair, learned counsel for the workman failed to substantiate the same. Therefore, his first contention does not merit acceptance.

Insofar as second limb of submission of learned counsel for the workman qua the punishment being disproportionate to the



gravity of charges found to be proved is concerned, this Court finds no force in the same. As is apparent from the charges levelled against him, he was absent in three consecutive financial years, i.e., 1985-86, 1986-87 and 1987-88, besides holidays, for an average period of 177 days per year with absence of 193 days in the year 1987-88. In response to the charge-sheet, the workman accepted the allegation and offered a lame excuse that to discharge his family obligations and on account of illness of his family members, he could not attend duty. However, the same was found to be bald, vague and unsubstantiated. Even otherwise, it was not acceptable as the valid excuse for wilful absence for much long period. Further, it was also alleged in the charge-sheet that in past also, he was warned/punished on account of his wilful absence. In the aforesaid factual backdrop, this Court finds that the workman was chronic defaulter in attending his duty without any justification. On that premise, this Court does not find the punishment inflicted upon him under Section 11A of the Act of 1947 vide order dated 16.07.1990 to be so shockingly disproportionate or excessive so as to warrant interference in it.

With regard to last submission of learned counsel for the workman as to protection available being a 'protected workman' is concerned, suffice it to say that there is complete absence of any factual foundation in the statement of claim to the effect that he was a 'protected workman' in absence whereof, this aspect could not have been examined by the learned Labour Court.

In the conspectus of aforesaid analysis, this Court finds no merit in the writ petition resulting into its dismissal.



The writ petition is dismissed accordingly.

Pending application(s), if any, also stands disposed of.

(MAHENDAR KUMAR GOYAL),J

23/DIKSHA