

www.ecourtsindia.com

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.W.P.No.2896 of 2011

Date of decision : 16.2.2011

Maresh

....Petitioner

Versus

The Presiding Officer, Industrial Tribunal-cum-
Labour Court, Rohtak and another

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

....

Present : Mr.Sandeep Singal, Advocate
for the petitioner.

.....

MAHESH GROVER, J.

The petitioner has impugned the award dated 10.8.2010.
He sought a reference under Section 10(1)(c) of the Industrial
Disputes Act, 1947 to the following effect :-

“Whether the termination of services of workman
Sh.Maresh is legal and justified? If not, so to what amount
of back wages, the workman is entitled along with his
reinstatement?”

His case was that he had been serving the respondents in
Winding Department since 1975 and thereafter he was promoted as a
Fitter Coolie and was retained in the service with the promise that he
will be promoted later on on the post of Carding Fitter. He had been
working @ Rs.1875/- per month, but on 13.1.1996 he was relieved

from the post and was transferred in Winding Department on account of mala fides. On 20.1.1996 when he was to report for duty, he was not permitted to enter the premises and many juniors were still working while he was transferred to the Winding Department. The respondent – Management thereafter stopped him from working which compelled him to seek the reference.

The respondent No.2 was on reply to contend that the services of the petitioner had been terminated after holding proper and fair enquiry and that he was dismissed on 15.1.1997 whereas the demand notice was served on 12.3.1996 prior to the termination. On merits, it was admitted that the petitioner joined the services on 29.5.1975 and that he worked in the Winding Department till 1989 for a period of 14 years. It was denied that he was ever promoted as a Fitter Coolie. It was pleaded that he was merely transferred as a Fitter Coolie in 1989 on the basis of his request as there was no work available as a Fitter Coolie and he was sent back to his parent job as a Winder which is a permanent one. The mala fides were denied as were the other averments that he was forcibly stopped from working.

The reference was declined which has led to the filing of the instant writ petition.

It was concluded by the Tribunal that a proper enquiry had been held by the respondent - Management before terminating the services of the petitioner. The plea of the petitioner that he was not permitted to work was also declined.

Undeniably the petitioner had worked from 29.5.1975 in the Winding Department upto September 1989 which is also the

case of the management. He was then permitted to work as a Fitter Coolie w.e.f. October 1989 to 14.1.1996 and since there was no requirement of Fitter Coolie he was transferred back to the Winding Department which was his parent department. The petitioner thereafter refused to join the said department and claimed a reference. Even before the Labour Court on 1.10.1997 the management made an offer that he can still come and join the Winding Department and continue to work there. The petitioner, however, did not join and accept the offer of the respondent - Management. The record also reveals that the petitioner was asked to work as a Fitter Coolie and on the non-availability of this post he was adjusted in his parent department which was not to his liking and which eventually he did not accept.

It is settled principle of law that a person who disobeys his employer has no right to claim that he has been wronged unjustly. The Management seems to have been fair to the petitioner when they sought to adjust him in the Winding Department after the job of fitter Coolie was not available. Their stand before the Labour Court was also the same that they were willing to take work from him in the Winding Department but the petitioner had been defying the said directions of respondent No.2 and has thus invited this situation for himself.

There is thus no merit in the present writ petition which is hereby dismissed.

16.2.2011

(MAHESH GROVER)
JUDGE

dss