(2013) 07 P&H CK 0683

High Court Of Punjab And Haryana At Chandigarh

Case No: C.W.P. No. 894 of 1993 (O and M)

General Manager, Punjab Roadways and Another		APPELLANT
	Vs	
Shri Kuldip Raj and Another		RESPONDENT

Date of Decision: July 15, 2013

Citation: (2013) 172 PLR 202

Hon'ble Judges: Mahesh Grover, J

Bench: Single Bench

Advocate: Nilesh Bhardwaj, D.A.G. Punjab, for the Appellant;

Judgement

Mahesh Grover, J.

The petitioner impugns the award of the Labour Court dated 6.9.1989 Annexure P-1 vide which the termination of the respondent/workman was held to be invalid and reinstatement ordered. The workman had claimed a reference u/s 10(1)(c) of the Industrial Disputes Act (hereinafter referred to as the Act) questioning the validity of his termination. He had stated in his demand notice that he had worked with the respondents with effect from 1.12.1977 and his services were terminated on 5.5.1981.

2. The plea of the petitioners in the said proceedings was that the respondent/work" man himself had abandoned his services and consequently, an enquiry was held holding him guilty. The petitioner never associated himself either with the proceedings or with the passing of the final order.

3. The witnesses produced by the petitioner testified that the respondent/workman had remained absent from duty which fact is not in dispute as the respondent/workman has admitted his absence, but attributed it to an ailment.

4. The Labour Court noticed that the respondent/workman was habitual of absenting himself from duty, but still held in favour of the workman by observing that that he had not been served in the proceedings which led to his termination.

5. There is no representation on behalf of the respondent/workman.

6. A perusal of the impugned award would show that the respondent had published a notice to deal with the situation where the respondent/workman had not responded to the communication sent to him. Once a publication has been made i.e. the notice to the general public and therefore, it cannot ipso facto be stated that such a publication would not be in the knowledge of the persons for whom it was intended more particularly, in view of unsubstantiated facts that the respondent/workman remained absent from duty on account of an ailment. He claimed a reference also after a lapse of 4 years of the passing of the order of termination.

7. The reasoning adopted by the Tribunal in discarding the publication to hold that there was inadequate attempt on the part of the petitioner to associate the petitioner is therefore, erroneous. The respondent/workman has not shown any material that publication was improper and not in accordance with law or was inadequate.

8. Even otherwise, it is evident that with the efflux of time, the petition has been robbed of any justiciable issue as the relief claimed has been rendered illusory. There is no information with the learned counsel for the petitioners as to whether the respondent/workman joined the service considering the interim order passed by this Court staying operation of the impugned award Annexure P-1, subject to the provisions of Section 17B of the Act. For the aforesaid reasons, the writ petition is accepted and the impugned award Annexure P-1 is set aside.