

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Revision No. 1471 of 2015 (O&M)

Date of decision : 11.5.2015

Sumer Singh Saini

... Petitioner

VS

Hindustan Machines & Tools Limited

... Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. M. K. Dogra, Advocate, for the petitioner.

Rajesh Bindal, J.

Challenge in the present petition is to the order dated 13.2.2015 passed by the learned Court below whereby the cross-examination of the witness produced by the management was recorded as nil.

In the case in hand, a reference impugning dismissal of the petitioner from service is pending in Labour Court at Ambala in which vide impugned order dated 13.2.2015, the cross-examination of the witness produced by the management was recorded as nil and the case was fixed for arguments.

Learned counsel for the petitioner submitted that even though the counsel as well as the petitioner were present in person in Court and the witness was to be cross-examined as well, still his cross-examination was recorded as nil. The petitioner is being harassed. He is not being afforded proper opportunity to plead his case. The counsels appointed by the District Legal Service Authority had not been discharging their duties properly and had to be changed. The petitioner even requested for a date for filing an application for transfer of the case but even that was declined. He seeks one opportunity to cross-examine the witness of the management.

After hearing learned counsel for the petitioner, I do not find any reason to interfere in the impugned order. The case pertains to the year 2007. Though it is claimed by the petitioner before the Court below that he is a resident of Faridabad and had to come regularly by spending huge

amount but in the petition, the address mentioned by the petitioner is of Kalka. Earlier he had filed Transfer Application No. 695 of 2014 before this Court seeking transfer of the case from Labour Court Ambala to Chandigarh. The same was disposed of on 29.11.2014 directing the Secretary, District Legal Service Authority, Ambala to appoint a counsel to represent the petitioner before the Labour Court. Thereafter, he filed Review Application No. 2/CII of 2015 of the aforesaid order seeking transfer of the case to Faridabad. The same was dismissed on 9.1.2015. The Transfer Application was moved by the petitioner before this Court through a counsel engaged by him privately.

A perusal of the order dated 12.2.2015 passed by the Secretary, District Legal Service Authority, Ambala, shows that initially Mr. Sandeep Kumar was appointed as counsel. He withdrew from the case. Thereafter, it was marked to Mr. Baljeet Singh. He also showed his inability to conduct the case. Thereafter, the case was entrusted to Mr. Shiv Kumar Markandey. The petitioner was not satisfied even with him. He filed application for change of that counsel as well.

Finding that three counsels had been appointed to conduct the case of the petitioner before the Labour Court but he was not satisfied with any one of them, the application filed by the petitioner for change of counsel was rejected while deprecating his conduct.

When the case was taken up by the learned Court below on 13.2.2015, he filed application before the Court for transfer of the case to other Bench. He used certain improper words in the Court which have been recorded in the impugned order such as, he is being harassed by giving short dates; he had to come from Faridabad by spending huge amount, even the High Court is not giving hearing to him. The learned Court below further recorded that the counsel deputed by the District Legal Service Authority namely Shiv Kumar Markandey stated before the Court that he is ready to cross-examine the witness of the management but the petitioner threatened him not to cross-examine the witness otherwise he will file complaint against him as was done by him against the previous counsels. Opportunity was also given to the petitioner to cross-examine the witness, but he refused to avail that. It was under these circumstances that the cross-examination of the witness of the management was recorded as Nil.

There is no error in the order passed by the learned court below seeing the conduct of the petitioner. I do not find that any case is made out to grant further opportunity to the petitioner.

Accordingly, the petition is dismissed.

11.5.2015
vs

(Rajesh Bindal)
Judge