

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

CR No. 4725 of 2015 (O&M)

Date of decision : 29.7.2015

Astrazenecea Pharma India Limited	.. Petitioner
versus	
Presiding Officer and another	.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Pawan Kumar Mutneja, Advocate, for the petitioner.
 Mr. Vivek Khatri, Advocate, for respondent no.2.

Rajesh Bindal, J.

Challenge in the present petition is to the order dated 18.3.2015 passed by the Industrial Tribunal-cum-Labour Court, Hissar, vide which evidence of the petitioner-Management was closed by order and further the order dated 2.7.2015 vide which the application for recalling the same was dismissed.

Learned counsel for the petitioner submitted that evidence of the workman was closed on 28.8.2014. The case was fixed for evidence of the Management for the first time on 29.9.2014. No doubt, on two dates of hearing, no evidence was present on behalf of the management. The reason being that the petitioner company had headquarter at Bengaluru. Thereafter, on two dates of hearing, the case could not be taken up as the Presiding Officer was not holding the Court. On the next date of hearing i.e. 21.1.2015, though affidavit of one of the witness namely Sourav Sinha, who was even present, was tendered and the same is in record but in the order it is mentioned that no evidence is present. On the next date of hearing, the evidence of the petitioner-management was closed by order noticing that despite five opportunities, the petitioner had not been able to lead the evidence. The submission is that the petitioner was not at fault on the date when even the presence of the witness is marked and his evidence is also on record but still in the order it has been mentioned that no evidence is

present. The Management company is based at Bengaluru. In fact, the Court at Hissar did not have the jurisdiction but still the claim is being defended.

Learned counsel for the petitioner submitted that in case one opportunity is granted, the petitioner management will conclude its evidence on that date.

On the other hand, learned counsel for respondent no. 2/ workman submitted that as despite granting numerous opportunities, the petitioner had not been able to conclude its evidence, no further opportunity is required to be given. Respondent no. 2 is a workman, who is being harassed by the management. Once the affidavit was not tendered by getting the statement recorded, even if the witness was present in court, the same has no meaning.

After hearing learned counsel for the parties, in my opinion, the present petition deserves to be allowed. In the case in hand, the case was fixed for evidence of the petitioner-management for the first time on 29.9.2014. No evidence of the petitioner-management was present on that day. It was adjourned to 30.10.2014. Still no evidence was produced by the Management. On the next two dates of hearing i.e. 27.11.2014 and 11.12.2014, the case could not be taken up as the Presiding Officer was on leave. On 21.1.2015, the Court passed the following order:-

“Sh Sourav Sinha, Regional Business Manager for the Respondent. No evidence of the respondent is present. Adjournment requested. Allowed. Come up for the same on 27.02.2015. Last opportunity is granted.”

Learned counsel for the petitioner has also produced certified copy of the affidavit dated 20.1.2015 of Sourav Sinha, which is already on the Court file. His presence has been marked. Still it has been recorded that no evidence of the management is present.

On the next date of hearing again, the case could not be taken up as it was declared a holiday on account of death of Hukum Singh, Ex-Chief Minister of Haryana. On 18.3.2015, the learned Court below while recording that despite six opportunities having been granted, the Management having not led evidence, the same was closed by order of the Court. Even the application for seeking recalling of that order was also dismissed.

A perusal of the zimni orders passed on different dates shows that in fact on two dates of hearing, there was no evidence present on behalf of the management and on one date of hearing, the witness was present and even his presence has been recorded. For other dates of hearing, the management was not at fault.

Considering the aforesaid facts, in my opinion, one opportunity deserves to be granted to the petitioner to conclude its evidence. The case is stated to be listed before the learned Court below today. The petitioner shall be granted opportunity to conclude its evidence on the date to be fixed by the learned Court below.

The petition stands disposed of accordingly.

29.7.2015

vs

(Rajesh Bindal)
Judge