

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 5995 of 2013
Date of decision : August 20, 2015

Beni Lal

..... Petitioner

Versus

Presiding Officer, Labour Court-I, Gurgaon and another
..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Ms. Abha Rathore, Advocate
for the petitioner.

Mr. Sachin Mittal, Advocate
for respondent No.2.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

The challenge in the present revision petition is to the order dated 17.7.2013 whereby an application filed by the workman objecting to the appearance of the Management through an Advocate has been rejected.

Ms. Abha Rathore, learned counsel appearing on behalf of the petitioner submits that as per provisions of Section 36 (4) of the Industrial Disputes Act, 1947 (hereinafter called as 'the Act'), the Management has to seek permission of the Labour Court for representing them through a counsel, which has not been taken note of, much less availed from the Labour Court and as well as consent of the opposite party. Rightly so, the application was filed which has, erroneously been dismissed.

Mr. Sachin Mittal, learned counsel appearing on behalf of the respondent submits that the order is fair, legal and justified and there is no illegality, much less infirmity in the order and it cannot be said to be without jurisdiction.

I have heard learned counsel for the parties and appraised the paper book.

No doubt the provisions of Section 36(4) of the Act, are mandatory in nature but the fact remains that as per ratio decidendi culled out by the Full Bench of this Court in **Indrasan Parsad Vs. Presiding Officer and another 2008 (1)SCT 522** that consent of party must be specific and the leave by Court is to be sought at the beginning of proceedings so that there remains no ambiguity, however, impugned order suffers from illegality as trial court remained oblivious of provisions of Section 36(4) of the Act.

Mr. Sachin Mittal, learned counsel for the respondent submits that prior permission shall be taken by the Management by moving an application for seeking compliance of the aforementioned provisions of the Act.

In view of the statement made by learned counsel for the respondent, it is observed that impugned order would not come in way of petitioner, no cause of action survives. Accordingly, the revision petition is disposed of.

(AMIT RAWAL)
JUDGE

August 20, 2015
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