

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

Civil Writ Petition No.20604 of 2011
Date of Decision: May 26, 2015

**Management Committee of SAMARTH, The International Boys Hostel,
Sector-15, Chandigarh & another**

...Petitioners

Versus

**Presiding Officer, Industrial Tribunal & Labour Court, Union Territory,
Chandigarh & another**

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.Arvind Kashyap, Advocate,
for the petitioners.

Mr.P.S.Bhangu, Advocate,
for respondent No.2.

AMIT RAWAL, J. (Oral)

The challenge in the present writ petition is to the *ex-parte* award dated 25.1.2011 (Annexure P-1), whereby respondent No.2-workman has been held entitled to reinstatement with 40% back wages.

Mr.Arvind Kashyap, learned counsel appearing on behalf of the petitioner-Management submits that the petitioner-Management, though was served through a Clerk, but he was stated to have been won over by the workman, therefore, the factum of pendency of the reference was not brought to the notice of the Management, though in the conciliation proceedings the Management had participated and raised the dispute that it

was not an industry. He further submits that in case the petitioner-Management was given an opportunity/chance to lead evidence, the workman would be able to rebut the same by moving an application for summoning the record qua her employment with the Management.

Mr.P.S.Bhangu, learned counsel appearing on behalf of respondent No.2 submits that the Management intentionally did not appear before the Labour Court and, therefore, the prayer for remand of the matter may not be accepted, as workman had remained unemployed during the period of termination.

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

The factum whether the Management Trust is an industry or not is left open to be decided by the Labour Court. Since the petitioner-Management has not been able to lead evidence in support of their alleged defence as raised in the present writ petition, I deem it appropriate to set-aside the award and remit the matter back to the Labour Court by giving an opportunity to file written statement and lead evidence in support of their respective defence.

Since the workman has been dragged into this Court and the matter has been kept pending for a period of four years, I deem it appropriate to direct the Management to pay compensation of ₹40,000/- to the workman for incurring the expenses and for defending the matter in this Court. It is so ordered. Further, the matter is remitted back to the Labour Court with a direction to decide the matter afresh by giving three opportunities each to the parties. The petitioner-Management would be at

liberty to file the written statement. The workman is also granted liberty to file rejoinder, if any, and lead evidence to rebut the evidence led by the Management.

It is expected that the Labour Court shall decide the controversy within a period of six months from the date of receipt of certified copy of this order.

With the aforementioned observations, the writ petition stands disposed of.

May 26, 2015
ramesh

(AMIT RAWAL)
JUDGE