

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12032 of 2015

Date of Decision: 03.09.2015

M/s India Aluminium Cables Employees Union

... Petitioner

Versus

M/s Hindustan Vidyut Products (Ltd)
and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ramender Chauhan, Advocate,
for the petitioner.

Mr. Shiv Kumar, Advocate,
for the respondent-caveator.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

This petition has been filed under Articles 226 & 227 of the Constitution of India praying for issuance of a writ in the nature of mandamus directing the respondent-1 to strictly follow the award dated March 20, 2015 (P-1) passed by the Presiding Officer, Labour Court-I, Faridabad whereby the appeal of the management has been allowed and the Government Notification dated August 06, 2013 amending and substituting the provision regarding age of retirement by the Haryana Amendment to the Industrial Employment (Standing Orders) Act, 1946 which introduced Rule

17-A in the Industrial Employment (Standing Orders) Punjab Rules, 1949 as inserted by Industrial Employment (Standing Orders) Punjab (Haryana Amendment) Rules, 2013 substituting clause 25 of certified Standing Orders.

Rule 17-A inserted by the Amending Rule 2013 reads as follows:-

“17 A. Age of Superannuation:- The age of retirement or superannuation of a workman shall be as may be agreed upon between the employer and the workman under an agreement or as specified in a settlement or award which is binding on both the workman and the employer. Where there is no such agreed age, retirement or superannuation shall be on completion of fifty eight years of age by the workman.”

A reading of the impugned order reveals that it is an agreed order. Against an agreed or consent order, a writ would not lie and the Union will have to rest content by the terms of the consent order. If the Union are still aggrieved by the retirement age they are free to seek remedies as are available in law against the management for increasing the age beyond the age which is presently an existing term and condition of service as per the appellate order passed by the learned Labour Court, Faridabad.

Dismissed with liberty to take recourse to remedies with respect to the age of retirement on the principles in industrial law as to change of condition/s of service before the appropriate forum. In case, any difficulty as to interpretation or application of the substituted Rule 17-A arises, the Union will be free to take recourse to section 13-A of the Industrial Employment (Standing Orders) Act, 1946 and the mechanism built in

therein.

The petition stands disposed of in the above terms.

(RAJIV NARAIN RAINA)
JUDGE

03.09.2015
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