

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

CWP No.17296 of 2013
Date of decision : 17.03.2015

Veer Singh

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. O.P. Batra, Advocate
for the petitioner.

Mr. Vikram Bajaj, Advocate
for respondent No.1.

Mr. A.K. Ahuja, Advocate
for the respondent Nos.2 to 5.

AMIT RAWAL, J. (Oral)

Challenge in the present writ petition is to the Notification dated 05.06.2013 (Annexure P-1) passed by Government of India, Ministry of Labour, whereby reference sought by the petitioner had been declined.

Mr. O.P. Batra, learned counsel appearing on behalf of the petitioner-workman submits that Government could not have declined the reference and remedy, if any, was for the Labour Court after entering upon the reference to adjudicate the lis between the employer and employee.

Mr. Vikram Bajaj, learned counsel appearing on behalf of Union of India submits that as per provision of Sub-Section 5 of Section 12

of Industrial Disputes Act, where the Officer decides not to make any reference, shall record or communicate to the parties reasons thereof.

Mr. A.K. Ahuja, learned counsel appearing on behalf of Bank submits that Government has decided that there is no relationship of the employer and employee and rightly so reference has been declined.

I have heard learned counsel for the parties and am of the view that it is settled law that Government cannot decline the reference whether there was relationship of employer or employee or not and Government cannot assume the power and jurisdiction of the Labour Court or of the Tribunal, besides the factual matrix and law points which is totally in its realm/domain.

Reference is invited to the judgment of this Court rendered in *Sant Lal, Workman Vs. State of Haryana 2011(3) RSJ 710*. Para No.18 of the judgment is extracted hereinbelow:-

“18. Therefore, it is held that the Joint Secretary to Government of Haryana (respondent No.1) did not have the power/jurisdiction to decide the industrial dispute between the parties and has illegally negated the claim of the workman in this relevant direction. The law laid down in the aforesaid judgments “mutatis mutandis” is applicable to the facts of the present case and is the complete answer to the problem in hand. Thus, the contrary arguments of learned counsel for contesting respondents “stricto sensu” liable to be and are hereby repelled and the impugned order (Annexure P2) deserves to be and is hereby set aside in the obtaining circumstances of the case.”

In view of what has been observed, the order (Annexure P-1) is

not sustainable in the eyes of law and be set aside.

The Government is directed to decide the matter afresh keeping in view the ratio descendi laid down in the aforementioned judgment. If the Government feels necessary, the matter shall be referred to the Labour Court afresh by passing a reasoned order.

Accordingly, the writ petition is disposed of.

17.03.2015

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**(AMIT RAWAL)
JUDGE**