

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.15662 of 2015
Date of Decision: August 03, 2015

M/s Sandhar Automotives, Gurgaon

...Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Gurgaon &
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.P.K.Mutneja, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

The challenge in the present writ petition is to the award dated 5.5.2015 (Annexure P-9), whereby the reference raised by the workman qua his termination, has been answered in his favour, on the premise that the department/Management did not initiate the departmental proceedings, much less, issued show cause notice.

Mr.P.K.Mutneja, learned counsel appearing on behalf of the petitioner-Management submits that the aforementioned finding was not required to be returned against the Management for the reason that the Management had appointed him as Slider Movement Machine Operator on 1.7.2007, though the workman alleged appointment in the year 1996 as

Slider Movement Machine Operator and on 14.5.2012, he was ordered to be transferred to another unit of the Management, which he did not join and on 17.5.2012 he raised the demand notice alleging termination on 15.5.2012 and, therefore, there was no occasion for compliance of dictum laid down by the Hon'ble Supreme Court in **D.K.Yadav Versus M/s. J.M.A. Industries Ltd., 1993(3) S.C.T. 537.**

I am in agreement with the aforementioned contention for the reason that the Labour Court did not have occasion to ponder upon the merits and de-merits of the matter and decided the reference only on this short ground.

Be that as it may, without adverting to the merits and de-merits of the respective claims/counter claim of the parties to the lis, I deem it appropriate to remit the matter back to the Labour Court by setting-aside the award dated 5.5.2015 (Annexure P-9) with a direction to the Labour Court to decide the controversy afresh after taking into consideration the aforementioned facts and all other contentions sought to be raised by affording an opportunity to lead evidence to the parties to the lis.

It is expected that the Labour Court shall decide the matter as expeditiously as possible, preferably within a period of six months.

The writ petition is accordingly disposed of.

August 03, 2015
ramesh

(AMIT RAWAL)
JUDGE