

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

**CWP No.22535 of 2012 (O&M)
Date of decision: 21.04.2015**

M/s Natasha Engineers Pvt. Ltd.

... Petitioner

Vs.

The Presiding Officer and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. Shiv Kumar, Advocate
for the petitioner.

Mr. Amarjit Singh, Advocate
for respondent No.2.

AMIT RAWAL J. (Oral)

The petitioner has challenged the impugned order dated 09.08.2012 (Annexure P-3) passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Faridabad, whereby, the Labour Court allowed the application, Annexure P-1 filed under Section 33-C(2) of the Industrial Disputes Act, 1947 (herein after referred to as 'the Act'), on the premise that a sum of ₹ 56,140/- was outstanding against the employer.

Mr. Shiv Kumar, learned counsel appearing on behalf of the petitioner-Management submitted that an application filed under

Section 33-C(2) of the Act was not maintainable as respondent No.2-workman had voluntarily retired on 22.09.2008 and taken his all dues vide Annexures P-4 to P-6.

Mr. Amarjit Singh, learned counsel appearing on behalf of respondent No.2 contends that the Labour Court has jurisdiction to determine whether the workman was to be compensated in accordance with Section 25-F of the Act or under the provisions of Section 33-C(2) of the Act.

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

The fact remains that respondent-workman had not challenged his termination and only filed an application under Section 33-C(2) of the Act. The presumption of submitting voluntarily resignation, though prima facie the case was decided in favour of the workman and against the Management, though the Management has produced on record Annexures P-4 to P-6 as Ex.M5 to Ex.M7, but the Labour Court has assigned no reasons, much less, cogent reasons by referring to the contents of the documents Annexures P-4 to P-6, rather has embarked upon the path. It was a reference under Section 10 of the I.D.Act and was to determine alleged termination. The findings of the Labour Court while dealing with the application filed under Section 33-C(2) of the I.D.Act by observing that the provisions of Section 25-F of the I.D.Act have not been complied with neither here and there as Labour Court was not enjoined upon an

obligation to decide whether workman had voluntarily retired or his services were terminated. The findings given qua under Section 25-F is thus, hereby set aside and the matter is remitted back to the Labour Court to determine whether application under Section 33-C (2) at the behest of the workman was maintainable or not by taking into consideration the evidence led by the parties to the lis.

Parties are at liberty to lead any further evidence. One opportunity each shall be given them and thereafter, the Labour Court shall decide the case on the basis of the evidence.

With the aforementioned directions, finding of the Labour Court is set aside and accordingly, the writ petition is allowed.

Parties through their counsel are directed to appear before the Labour Court on 14.05.2015.

(AMIT RAWAL)
JUDGE

April 21, 2015
savita