

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.18203 of 2014 (O&M)
Date of Decision: 10.12.2015

M/s. Ess Kay Fabrications

... Petitioner

Versus

Presiding Officer, Industrial Tribunal-
cum-Labour Court-II, Gurgaon
and another

... Respondents

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

Present: Mr. Rajiv Sharma, Advocate,
for the petitioner.

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

RAJIV NARAIN RAINA, J.

1. This Court passed the following order on February 09, 2015:-

“Prima facie the argument of the learned counsel for the petitioner that they were not in the know of the proceedings is unfounded. Registered Cover was sent to the petitioner which would attach a presumption of intimation and the Labour Court would have rightly proceeded in the matter. However, on the issue of grant of complete back wages the court would still like to examine provided the petitioner gives intimation that the workman has been taken back into service. Prays for time.

Adjourned to 17.7.2015.”

2. Without addressing arguments there have been taken several dates thereafter where adjournments have been requested. On October 29, 2015 yet another request was made for time to file the requisite affidavit.

The affidavit dated October 29, 2015 was filed on November 21, 2015 in which it has been averred that the management had sent three letters by registered post dated March 03, 2015, March 19, 2015 and April 24, 2015 to R-2 and requested workman to join duty with the petitioner-Company. However, no response was received by the petitioner from R-2 in this regard.

3. No evidence of transmission of the registered letters has been placed on record with the affidavit. Therefore, it is not known whether the effort for serving the R-2 was genuine, bona fide and aimed at the correct address. In any case, the ex parte award is as good as an award which is contested. Award of back wages remain within the discretion of the Labour Court and discretion exercised judiciously and judicially is not open to correction in writ proceedings where judicial review is restricted to the parameters laid down in **Syed Yakoob v. K.S. Radhakrishnan**; AIR 1964 SC 477, **Surya Dev Rai v. Ram Chander Rai**; (2003) 6 SCC 675 and **Satyanarayan Laxminarayan Hegde vs. Millikarjun Bhavanappa Tirumale**, AIR 1960 SC 137; (1960) 1 SCR 890.

4. No substantial justice has been done to a party who has abandoned the proceedings before the Labour Court to their own peril.

5. The petition, is consequently, dismissed.

(RAJIV NARAIN RAINA)
JUDGE

10.12.2015
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