

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.18640 of 2015

Date of Decision: 04.09.2015

M/s Mercury Fabrics Pvt. Ltd.

... Petitioner

Versus

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

... Respondents

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

Present: Mr. Gulshan Nandwani, 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.

The Labour Court has faulted the termination and awarded reinstatement with 40% back wages with effect from December 12, 2012 for good and sufficient reasons mentioned in the award dated July 20, 2015 passed by the Presiding Officer, Labour Court-I, Gurgaon. The Court has applied the law laid down by the Supreme Court in **Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) and others**, (2013) 10 SCC 324 to decide the case where the statutory provisions of section 25-F of the Industrial Disputes Act, 1947 were not complied with making the termination illegal and void. The relationship of employment was admitted by the management during the relevant time and, therefore, they could not take a converse position before the Court as they sought to do except by leading unimpeachable evidence to prove to the contrary.

The only argument worth consideration which has been attempted to be raised in this petition at the time of hearing is that an application was filed for leading additional evidence on April 10, 2015 which has not been decided while answering the reference on July 20, 2015.

I have carefully read the contents of the application for additional evidence and find no material particulars or special facts on which the case would hinge even if the application was allowed. General statements have been made that the workman is gainfully employed elsewhere and despite their best efforts to obtain proof of gainful employment, the management have not met with success. It is left in the dark as to who is the new employer is and its whereabouts and that at least could have been stated. In any case, the argument may have held ground if 100% back wages had been awarded by the Labour Court to make a case for cut in back wages or in denial or as a factor to mould the relief accordingly is such a plea was established. The Labour Court has given a substantial cut in back wages which question is left open in case it is agitated by the workman in separate proceedings, which in case filed, would be decided on its own merits without being influenced by anything said in this order.

No interference is called for in awards of Labour Courts or Tribunals on a question of law and facts adjudged which are not vitiated by error apparent on the face of the record. Once the labour court has exercised its discretion judiciously and judicially with reference to evidence and the materials on record the High court can interfere with the award only if it is satisfied that the award of the labour court has any fundamental flaw, see recent ruling affirming past dicta on the proposition in **K.V.S Ram v.**

Bangalore Metropolitan Transport Corporation, 2015 STPL(Web) 37
SC.

There is no fundamental flaw found in the reasoning of the Labour Court in the impugned award. No ground for interference is made out.

The petition stands dismissed.

(RAJIV NARAIN RAINA)
JUDGE

04.09.2015
manju