

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

1.

CWP-21950-2013

Date of Decision: 09.07.2015

Sajjan Kumar

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak
and ors.**

...Respondents

2.

CWP-21963-2013

Date of Decision: 09.07.2015

Satbir

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak
and ors.**

...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. Sandeep Singal, Advocate for the petitioner.

Mr. Brijender Kaushik, Advocate for respondent No.3.

AMIT RAWAL, J. (ORAL)

Challenge in the present writ petition is to the order dated 12.04.2013 (Annexure P-5), whereby application for secondary evidence to produce the photocopies of the attendance register has been rejected.

Mr. Sandeep Singal, learned counsel appearing on behalf of the petitioner submits that in response to the application moved for production of the documents, the Management intentionally did not produce the entire record which would have entitled the petitioner to prove the year/date of his employments. Since, the petitioner was having the photocopy of the attendance register and, therefore, moved an application vide Annexure P-3 for allowing the photocopies of the attendance register to be lead as secondary evidence, which has been dismissed vide impugned order dated 12.04.2013.

Mr. Kaushik, Advocate for respondent No.3 submits that impugned order does not suffer from any illegality or perversity & is thus liable to be sustained.

I have heard learned counsel for the parties.

The Labour Court had rejected the application on the premise that workman had failed to give any reason how he arranged the photocopy of the original documents, whereas the same cannot be in the possession of the workman, who was allegedly working as driver under the Management. The other ground for rejection is that the said documents have not been admitted by the other party and, therefore, photocopy of the documents cannot be permitted to led as secondary

evidence.

The aforementioned findings according to me are not only fallacious, much less, erroneous for the reasons that the petitioner would be entitled to produce the photocopy after proving its existence. Since Management did not produce the same, therefore on proving the existence, the petitioner would be able to produce/prove, exhibit photocopy by way of secondary evidence. The petitioner had already exhausted the remedy by moving an appropriate application for production of documents and Management did not produce the entire record. Therefore, only remedy which was left with the petitioner was to move an application for leading secondary evidence as the respondents did not produce the original documents.

Though the petitioner was required to invoke the provision of Section 66 of the Indian Evidence Act i.e. by issuing a notice to the Management to produce the documents but said exercise had already done.

In these circumstances, order is set aside. Liberty is granted to the petitioner to prove the existence of the photocopy and after proving the same, the petitioner shall be entitled to prove the same by way of secondary evidence.

With the aforementioned observation, impugned order is hereby set aside.

Resultantly, writ petitions are allowed.

July 09, 2015
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(AMIT RAWAL)
JUDGE