

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

CWP No. 26114 of 2012

Date of decision: 10.02.2015

Rohtash

...Petitioner

V/s.

**The Presiding Officer, Labour Court
and others**

...Respondents

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

Present: Mr. J.S. Cooner, Advocate for the petitioner.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

RAJIV NARAIN RAINA, J. (Oral).

Reference No. 33 of 2010 was endorsed to the workman at the address furnished by him in his demand notice dated 26.03.2009 and in his request to the appropriate Government to make a reference of the dispute arising between the parties, as has been pointed out by Mr. Jindal, learned Additional Advocate General, Haryana. He would also point out from Annexure P-6, which was the application for restoration of the case after the award came *ex parte* workman, wherein there is an averment that he had not received the letter informing him to appear in Court on 17.05.2010 when the Labour Court proceeded *ex parte* against him and, therefore, he was left without notice of the proceedings.

Learned counsel for the petitioner submits that 17.05.2010 was the first date of appearance after the registration of reference on which date his client had no notice and, therefore, failed to appear and was proceeded *ex parte* which has resulted in an award declining the reference and granting him no relief.

Even if this Court were to accept the argument of Mr. Jindal as correct, which in normal circumstances exists would have been good one, but even then there is nothing on record to suggest or exists on the face of the award that the workman deliberately or willfully avoided appearance or there was refusal to accept the letter sent by the appropriate Government to the Labour Court and endorsed to him. When the appropriate Government makes a reference of dispute under the Act, it is not acting as a Court which issues summons for appearance. It would be fair and proper for Labour Court in such circumstances to issue Court process to the parties and fix a date for appearance so that the process serving agency can be held accountable in effecting service on a party or recording refusal, if any. In absence of any finding either in the impugned order proceeding *ex parte* against the workman on 17.05.2010 or in the award dated 28.10.2010 passed by the learned Presiding officer, Labour Court, Ambala, the *ex parte* proceedings against the workman cannot be supported in law as fair and proper and in the absence of the same have caused serious prejudice to his cause which can only be rectified upon a remand.

In these circumstances, this petition is partially allowed. The impugned order dated 17.05.2010, the award and the order refusing to recall the *ex parte* proceedings are set aside and the matter is remanded to the Labour Court for a fresh adjudication on merits.

Parties to appear before the Labour Court on 10.03.2015.

February 10, 2015
Divyanshi

(RAJIV NARAIN RAINA)
JUDGE