

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

CWP No.23188 of 2013
Date of decision : 14.05.2015

M/s Vishesh Overseas

...Petitioner

Versus

Presiding Officer & anr.

...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. Sachin Mittal, Advocate
for the petitioner.

Mr. Parveen Chauhan, Advocate
for the respondent No.2.

AMIT RAWAL, J. (Oral)

CM No.1989-CWP of 2014

Prayer in the present application is for placing on record the affidavit dated 17.02.2014.

Affidavit is taken on record.

Application stands allowed.

CWP No.23188 of 2013

Present writ petition has been filed on behalf of Management against the award dated 09.11.2012 (Annexure P-5), whereby reference has

been decided in favour of respondent No.2-workman and has been ordered reinstatement with 40% back wages on the basis of last drawn salary.

Mr. Sachin Mittal, learned counsel appearing on behalf of the petitioner submits that the workman had only worked for a period of 12 months as Checker and the Labour Court has failed in its duty to brought on record which shows that services of the workman not terminated and therefore there was no need of serving any show cause notice, much less, charge sheet.

Mr. Parveen Chauhan, learned counsel appearing on behalf of respondent No.2-workman submits that Management did not permit the workman to enter into the premises and refused to work from there and, therefore, the services had terminated and, therefore, could not be termed as abandoned the job.

During the pendency of the writ petition, the Management gave offer that they are willing to take the workman back on duty subject to the stay of the payment and the back wages and this Court while issuing notice of motion passed the following order:-

“Learned counsel for the petitioner submits that the present one was a case of absence from duty and abandonment of job. Respondent-workman did not respond to numerous letters written by the petitioner-management asking him to join. He further submits that in spite of the above-said facts, petitioner-management is still ready and willing to allow the respondent-workman to join.

Notice of motion for 22.01.2014.

In the meantime, subject to the condition that workman is taken back in service, payment of back wages

shall remain stayed.

23.10.2013

Sd/- (RAMESHWAR SINGH MALIK)

JUDGE”

Mr. Sachin Mittal, learned counsel for the petitioner submits that workman was taken back to duty and permitted to join the duty but after rendering services for two days, he did not report/join for the duty.

Mr. Parveen Chauhan, learned counsel for the respondent No.2 submits that petitioner before terminating his services, he was performing the duty of Checker and, thereafter when he joined back on duty, he was assigned some other work which was not as per his qualification, much less, expertise.

Since both the parties to the lis are not happy with each other and are nursing and Rancour against each other, it would be fitness of thing not to order for reinstatement. There is no averments in demand notice that workman was gainfully employed within a period he remained out of service. Thus, the finding of the Labour Court for awarding the back wages on this premise are hereby set aside.

Be that as it may. Since both the parties to the lis are not happy with each other and have become eye sore, it would be appropriate to award the amount of compensation to the workman to defray the order of reinstatement.

As already observed above, the workman has rendered the services of 12 months, compensation of ₹55,000/- will be just, fair and legal.

Accordingly, the award of the Labour Court is modified and workman shall not be entitled to reinstatement, much less, any back wages

and shall be entitled to consolidated amount of compensation of ₹55,000/-.

Management is directed to make the payment of compensation of ₹55,000/- within a period of two months from the date of receipt of certified copy of the order, failing which it shall entail the interest of 12% p.a.

Accordingly, present writ petition is disposed of.

14.05.2015

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**(AMIT RAWAL)
JUDGE**