

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: August 04, 2015

1. CWP No.2114 of 2014

M/s C.R.Associates, Gurgaon

...Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon & others

...Respondents

2. CWP No.2166 of 2014

M/s C.R.Associates, Gurgaon

...Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon & others

...Respondents

3. CWP No.7131 of 2014

M/s Century Auto Private Limited, Gurgaon

...Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon & others

...Respondents

4. CWP No.7176 of 2014

M/s Century Auto Private Limited, Gurgaon

...Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Suresh Kumar Kaushik, Advocate,
for the petitioner (in CWP Nos.2114 & 2166 of 2014).

None for the petitioner in CWP Nos.7131 & 7176 of 2014.

Mr.Shiv Kumar, Advocate,
for respondent No.2 in all the cases.

AMIT RAWAL, J. (Oral)

By this common order, I intend to dispose of four Civil Writ Petition Nos.2114, 2166, 7131 and 7176 of 2014 as common question of law and facts is involved in all the cases. The facts are being taken from CWP No.2114 of 2014.

Petitioner, respondent No.2 before the Labour Court, has approached this Court by challenging the award dated 22.11.2013 (Annexure P-4), whereby the reference has been decided against M/s Century Auto India Pvt. Ltd., Gurgaon, petitioner in CWP Nos.7131 and 7176 of 2014. M/s C.R.Associates had been proceeded against *ex-parte* before the Labour Court.

Mr.Suresh Kumar Kaushik, learned counsel appearing on behalf of the petitioner in CWP Nos.2114 and 2166 of 2014 submits that the address given before the Labour Court was not correct as the address of the work place of the petitioner is Plot No.692, Sector 23, Near Chiranjeev Bharti School, Gurgaon and not Old Palam Vihar near Ansal Plaza, Gurgaon and accordingly no notice of the reference, much less, any demand notice, if any, purported to have been filed by the workmen, was ever received by the petitioner.

The Labour Court, on going through the evidence brought on

record by the workmen and M/s Century Auto Private Limited, has answered the reference against the petitioners and they have been held responsible jointly and severally for payment of compensation of ₹1,50,000/- (in CWP Nos.2114 & 7176 of 2014) and ₹1,00,000/- (in CWP Nos.7131 and 2166 of 2014). He submits that the liability has been fastened upon the petitioners without giving any opportunity of hearing, much less, to defend the proceedings before the Labour Court.

Mr.Shiv Kumar, Advocate appearing on behalf of the workmen submits that though the Labour Court has answered the reference in favour of the workmen, but the liability has been fastened on both the petitioners, i.e., M/s Century Auto Private Limited and M/s C.R.Associates, though M/s Century Auto Private Limited also challenged the award.

I have heard the learned counsel for the parties and appraised the paper book.

While juxtaposing the address given in the present petition and as well as the reference before the Labour Court, it leaves no manner of doubt that the address of the present petitioner was different and, therefore, rightly so the petitioner in CWP Nos.2114 and 2166 of 2014 was not served in the proceedings initiated by the Reference Court, much less, in the demand notice. It is also the case of the petitioners that they were not served any demand notice under Section 2A of the Industrial Disputes Act, 1947.

Be that as it may, the fact remains that since the petitioners have not been given any chance to contest the claim of the workmen as they have been proceeded against *ex-parte* on the premise that they have been served, but the fact remains that the service was not effected at the address,

which admittedly, is not the address of the petitioners.

Without going into merits and de-merits of the matter in controversy, vis-a-vis liability of making compensation, I deem it appropriate to set-aside the award and remit the matter back to the Labour Court to decide the same afresh after giving opportunity to the petitioners in CWP Nos.2114 and 2166 of 2014 to file the written statement. M/s Century Auto Private Limited would also be given opportunity to file any additional written statement in case any necessity arises. The Labour Court shall give 4-4 opportunities to the workmen and the Management for leading evidence in support of their respective claims/defences and shall make an endeavour to decide the case within a period of eight months from the date of receipt of certified copy of this order.

The parties, through their counsel, are directed to appear before the Labour Court on 25.8.2015.

The writ petitions stand disposed of accordingly.

August 04, 2015
ramesh

(AMIT RAWAL)
JUDGE