

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

Civil Writ Petition No.3219 of 2012

Date of decision: 5.11.2015

M/s Matrix Clothing Pvt. Ltd.

... Petitioner

Versus

Presiding Officer and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Adarsh Jain, Advocate,
for the petitioner.

Mr.G.S.Bal, Sr. Advocate, with
Mr.A.D.S.Bal, Advocate,
for respondent No.2.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

The Labour Court has awarded reinstatement with continuity of service and restricted the back wages to 50% of the last drawn salary from the date of termination till reinstatement. The award has been passed by the Presiding Officer, Labour Court-II, Gurgaon on October 4, 2011. The Labour Court has concluded on the evidence that the respondent-workman was given a raw deal by the management and termination of her services were a product of violation of Section 25-F of the Industrial Disputes Act, 1947. The positive finding returned is that the termination from service is illegal and arbitrary and has been occasioned on a false pretext that the

workman remained absent from duty. This was make-believe. The question before the Labour Court was whether work-person Babli had been inflicted illegal termination from service or had she absented herself from duty willfully and without prior information and thereafter never to return to duty. The worker was employed as a Checker on July 10, 1996. No evidence was produced by the management to contradict the date. The case set up by the management is that the respondent-workman remained absent from duty from July 9, 2001 despite notices. These were issued to the workman on July 19, 2001, July 30, 2001, August 13, 2001 and August 24, 2001 by UPC and registered post. In her joining report submitted while accepting the appointment on September 1, 1997, the respondent gave her permanent address as "Village Talav, Post Office Jhajjar, District Rohtak" and present address at "VPO Khandsa, Gurgaon." Despite the permanent address being known, the management continued to serve her at the current address in village and post office Khandsa. This would be like looking for a needle in a haystack.

2. Smt. Babli was not a famous lady to whom a letter would reach anyhow as every postman might know her by face and name. The Labour Court has discussed these issues in para. 13 and 14 of the award beyond which this Court has nothing more to say. Para. 13 and 14 read as follows : -

"13. Ex.R1 is the copy of the appointment letter of workman Smt.Babli, in which, she is mentioned to be the wife of Satender Kumar and permanent address is also mentioned as village Talav, Post Office Jhajjar and present address is mentioned as VPO Khandsa, Gurgaon. It is the case of the respondent that after absence of the workman from the duty, numerous letters were sent to her. Ex.R-5 is the copy of letter dated 19.7.2001. Ex.R-6 is the copy of the

letter dated 30.7.2001 and Ex.R-8 is the copy of letter dated 30.8.2001. All these letters were posted at the present address of VPO Khandsa, Gurgaon. This is not the permanent address of the workman. The present address of the workman is of Post Office Khandsa as given in the appointment letter Ex.R-1, as well as, in the joining letter ex.R-2. If the letter was to be posted at the present temporary address of the workman, it should have been mentioned the house number, care of, name of landlord of house or there should have been mentioning of any nearby important location of the address of the workman. In the present case, no such effort has been shown to have been made by the respondent in delivering the letters EX.R-5 to Ex.R-10. Letters Ex.R-8 and Ex.R-10 are shown to have been posted on the temporary postal address through registered post. Either the letter should have been delivered, if delivered, acknowledgment should have been received back to the respondent and if not delivered, the registered letter must have been received back by the sender (respondent). In the present case, the situation has not been clarified.

14. It can very well be presumed that after leaving the job, the employee goes back to the permanent address and it was obligatory on the part of the respondent to send the letters at the permanent address of the worker.”

3. Having regard to the perfectly good reasons recorded above by the court *a quo* this Court finds no ground is made out for intervention against the award. The petition is without any substance and is hereby dismissed.

(RAJIV NARAIN RAINA)
JUDGE

November 5, 2015
Paritosh Kumar