

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

Civil Writ Petition No.24512 of 2013

Date of Decision: August 07, 2015

M/s S.G.S.India Pvt.Ltd., Gurgaon

...Petitioner

Versus

State of Haryana & 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.Nitin Thatai, Advocate,
for the petitioner.

Dr.Sushil Gautam, DAG, Haryana,
for the State.

AMIT RAWAL, J. (Oral)

The challenge in the present writ petition is to the award dated 22.4.2013 (Annexure P-11), whereby the reference sought by the workman qua his alleged termination, has been answered in his favour and against the petitioner-Management.

Mr.Nitin Thatai, learned counsel appearing on behalf of the petitioner-Management submits that there was no relationship of employer and employee with the workman in view of the agreement dated 31.12.2006 (Annexure P-2), but the fact remains that such agreement could not be produced on record as the petitioner-Management was proceeded against

ex-parte and was never served and had the evidence, i.e., agreement, *ibid*, been produced on record, probably the Labour Court would not have given finding, which has been assailed in the present writ petition. He further submits that the petitioner had availed the services of the Security Agency-respondent No.3 for providing guarding services. Security Officers and Assistant Supervisors were provided for the said agency, who had provided the service and, therefore, there was no relationship of employer and employee.

Notice of this petition was served on respondent Nos.3 and 4. Despite service, no one has put in appearance on their behalf and, therefore, I proceeded to decide the petition on merits.

It is a matter of record that the petitioner-Management was proceeded *ex-parte* before the Labour Court, but no *zimni* orders or any other order had been produced on record, though the petitioner had received the copy of the demand notice when the matter was pending before the Labour Court for conciliation proceedings. The argument of the learned counsel for the petitioner that they were never served with regard to the proceedings before the Labour Court, though appears to be attractive, but in the absence of *zimni* orders, the Court is not inclined to believe, but the fact remains that since the agreement dated 31.12.2006 is in existence, which clearly deciphers, it is only the security agency which had provided the service of Assistant Supervisor and Security Officers and the workman, according to the claim, was rendering service of Assistant Supervisor or Supervisor and, therefore, I deem it appropriate that an opportunity be given to the petitioner to contest the case before the Labour Court by leading

evidence, which has been annexed with the present writ petition, for the reason that the same has to be brought on record and proved, much less, put to the workman.

Keeping in view the aforementioned facts, the award of the Labour Court is set-aside and the matter is remitted back to the Labour Court, which shall decide the reference after giving proper opportunity to the parties to the lis.

The petitioner, through its counsel, is directed to appear before the Labour Court on 31.8.2015.

It is expected that the Labour Court shall decide the matter as expeditiously as possible, preferably within a period of six months from the date of receipt of certified copy of this order, much less, in accordance with law.

The writ petition stands disposed of.

August 07, 2015
ramesh

(AMIT RAWAL)
JUDGE