

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

Civil Writ Petition No.2458 of 2013
Date of Decision: April 23, 2015

M/s Shahi Export House (presently Shahi Exports Pvt.Ltd.), Faridabad

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum-Labour Court Circle-1,
Faridabad & another**

...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: Mrs.Abha Rathore, Advocate,
for the petitioner.

Mr.Diwan S. Adlakha, Advocate,
for respondent No.2.

AMIT RAWAL, J. (Oral)

The petitioner-Management has approached this Court against the award dated 23.10.2012 (Annexure P-8) passed in pursuance to the reference raised by the workman qua his alleged termination.

The claimant-workman had alleged that he was dismissed from service on 21.4.2005 after holding a domestic enquiry against him. The Labour Court found that the enquiry was totally an eye wash and had not been done in accordance with law.

Mrs.Abha Rathore, learned counsel appearing for the

petitioner-Management contended that at the outset in response to the claim statement, in the written statement Management has sought indulgence of the Labour Court for granting an opportunity to the Management to prove the charges before the Labour Court by leading evidence. Despite such averment in the written statement, the Labour Court has not considered the same and proceeded to decide the reference. She has further submitted that even during the pendency of the proceedings before this Court, the workman was issued a letter to join the duties at Noida, but the workman has not joined.

Mr.Diwan S. Adlakha, learned counsel appearing for respondent No.2 submits that after the decision rendered by the Labour Court, the Management has employed many drivers at Faridabad and, therefore, transfer of the workman to Noida by offering appointment amounts to unfair labour practice.

Be that as it may, the fact remains that the Management had sought indulgence of the Labour Court to hold a fresh enquiry. The plea of the learned counsel for respondent No.2 is supported by the ratio decidendi culled out by the Hon'ble Supreme Court in **Karnataka State Road Transport Corporation Versus Smt.Lakshmiddevamma, 2001(2) SCT 1041**, where it has been held that the employer can avail the right at the earliest while filing its claim or written statement but not any later stage.

The instant case is covered by the ratio decidendi culled out in the aforementioned judgment as the Management had taken a categoric plea in the written statement, but it appears that the Labour Court has failed to address such prayer.

Since the Management has taken the plea, I deem it appropriate to remand the case back to the Labour Court by setting-aside the award with direction to the Labour Court to give an opportunity to the parties to the lis to prove the charges in accordance with law. The Labour Court shall make an endeavour to decide the matter as expeditiously as possibly, preferably within a period of six months.

It is made clear that none of the parties shall make any effort to delay the adjudication of the matter.

The petition stands disposed of.

April 23, 2015
ramesh

(AMIT RAWAL)
JUDGE