

COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21871 of 2015 (O&M)

Date of decision: **October 13, 2015**

M/s Jagsonpal Pharmaceuticals Ltd ...Petitioner

Versus

The Presiding Officer and another ... Respondents

Coram: HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Zorawar Singh, Advocate
for the petitioner.

HARINDER SINGH SIDHU, J.

This petition has been filed against the order dated 16.9.2015 (Annexure P-6) passed by the Labour Court-cum-Industrial Tribunal, Jalandhar, whereby, application for staying the implementation of the Award dated 3.7.2014 (Annexure P-3), moved by the petitioner-Company, was dismissed.

Brief facts are that Sanjay Kumar Gupta – respondent No.2 joined the service of the petitioner Company as Store-Incharge on 15.10.1999 at Patna. In February, he was transferred to Jalandhar Depot of the Company. His services were terminated on 26.2.2005, against which he approached the Labour Court, to which reply was filed by the petitioner Company. However, later, the petitioner Company was proceeded against ex parte. Vide ex parte Award dated 3.7.2014 (Annexure P-3), respondent No.2 was

ordered to be reinstated in service with 30% back wages with continuity of service. The petitioner Company was further directed to make payment within four months from the date of publication of the Award, failing which respondent No.2 was held entitled to interest at the rate of 6% p.a. upon the awarded amount from the date of award till actual realization.

After about six months of the passing of the Award, i.e. on 22.1.2015, the petitioner filed application for setting aside ex parte award along with an application for staying its implementation. Reply was filed by respondent No.2 – workman and, finding no prima facie case in favour of the petitioner, the impugned order dated 16.9.2015 dismissing the application for stay of operation of ex-parte award, was passed.

I have heard learned counsel for the petitioner.

The petitioner has denied the timely knowledge of the ex-parte order and the passing of the Award by stating that the Counsel representing it before the Labour Court had suffered brain haemorrhage. The application for setting aside the ex parte Award is still pending, wherein, the parties have to lead their evidence in support of their respective claims. However, the Labour Court finding no prima facie case in favour of the petitioner dismissed the application for staying the implementation of the Award.

The grant of interim relief is in the discretion of the Trial Court, which ordinarily should not be interfered with unless grave and manifest injustice is caused thereby.

It is not a case where the petitioner has been taken by surprise. Herein, the counsel for the petitioner had appeared and also filed reply to the claim of respondent No.2. The petitioner was proceeded against ex parte in January, 2013 and the award was passed 1½ year thereafter on 3.7.2014. It is the case of the petitioner that it came to know about the ex parte Award only on 14.1.2015 i.e. after about two years of its being proceeded against ex parte.

On the facts of this case, I do not find any reason to interfere with the exercise of jurisdiction by the Ld. Labour Court as neither there appears to be failure of justice nor irreparable loss to the petitioner. To the contrary it appears to be a case of negligence on its part.

Petition is dismissed.

It is made clear that nothing stated herein shall be construed as expression of opinion on any aspect of the dispute.

October 13, 2015

**(HARINDER SINGH SIDHU)
JUDGE**