

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 5565 of 2012
Date of decision : May 21, 2015

Sugan Lal

..... Petitioner

Versus

M/s Bhartia Industries Limited and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ashwani Bakshi, Advocate
for the petitioner.

Mr. Shiv Kumar, Advocate
for respondent No.1.

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?

Amit Rawal, J (oral).

The challenge in the present petition is to the order dated 6.10.2010 whereby the reference qua the alleged termination of services of the petitioner, on the ground that Industrial Tribunal did not have territorial jurisdiction has been dismissed.

Learned counsel for the petitioner submits that the petitioner was appointed as Store Attendant at Faridabad in the year 1978. The Management had promulgated a scheme for VRS in the year 2000. The petitioner did not opt for the same. The petitioner was ordered to be transferred to Chennai on 4.9.2000 to the another unit of the Management. The petitioner vide Annexure P-1 on 4.9.2000 submitted a complaint to the Labour Inspector qua his alleged transfer by stating that he has refused to adhere to the VRS

Scheme and as an act of harassment and arm twisting, the petitioner was transferred to Chennai which amounted to unfair labour practice. Thereafter the Management gave an undertaking to pay travelling allowance to the petitioner to join at Chennai. The petitioner workman reported on duty at Chennai on 7.10.2000 and returned back on 9.10.2000. Thus, he submitted that a part of cause of action accrued at Faridabad, therefore the Labour Court had territorial jurisdiction.

Learned counsel for the respondent-Management submits that since the workman was ordered to be transferred at Chennai and there was no order of termination and the petitioner had abandoned the service, therefore, the the Labour Court had rightly rejected the reference of the petitioner much less Labour Court at Faridabad did not have territorial jurisdiction.

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

There is no merit in the statement made by the learned counsel for the respondent-Management as a part of action accrued at Faridabad which fact is evident from Annexure P-1.

In order to lend support of his contention he has relied on the judgment of the Hon'ble Supreme Court in **Bikash Bhushan Ghosh and others Vs. M/s Novaratis India Limited and others 2007 AIR SCW 2990** to contend that the finding aforementioned has been reiterated from the observations of the Hon'ble Supreme Court in para 9,10 and 11 of the judgment. Para 9 , 10 and 11 reads thus:-

9. *“Mr. Chander Uday Singh, learned senior counsel appearing on behalf of the respondent, on the other hand would contend that no conciliation proceeding was pending in regard to the order of transfer as alleged or at all. It was submitted that in fact, the appellants categorically stated before the Industrial Tribunal that they would not question the orders of transfer, but only would question the orders of termination. Having regard to the fact that the orders of transfer dated 3.10.1994 were given effect to by relieving the workmen of the charges they had been holding at Calcutta, they would be deemed to have been attached to their transferred places and as they failed to join, their services were lawfully terminated.*

10. *As the Division Bench of the High Court did not enter into the merit of the matter, we do not intend to deal with the questions as to whether any conciliation proceedings was, in relation to the orders of transfer passed as against the appellants, in fact pending before the Deputy Labour Commissioner, West Bengal or not. Appellants, however, in our opinion could not have questioned the orders of transfer in view of the nature of the industrial dispute referred to by the State of West Bengal for determination thereof by the III Industrial Tribunal, West Bengal. The orders of transfer were, thus, not in issue before the learned Tribunal.*

11. *It is, however, not disputed that the orders of termination were served upon the appellant at Calcutta. The orders of termination as against them were passed for not obeying the orders of transfer. The transfer of the appellants, therefore had some nexus with the order of their termination from services. It is therefore, not correct to contend that the State of West Bengal was not the appropriate government.”*

In view of the law laid down by the Hon'ble Supreme Court, it is settled law that the Faridabad Industrial Tribunal had territorial jurisdiction to try the reference qua the alleged termination of the petitioner.

The award of the Labour Court is set aside. The writ petition is allowed. The matter is remanded back to the Labour Court to decide the controversy with regard to the alleged termination of the petitioner on merits after affording an opportunity of hearing to the parties to lead the evidence.

It is expected that the Labour Court shall endeavour to decide the matter within a period of four months from the date of receipt of certified copy of this order.

Parties through their authorized representatives shall appear before the Labour Court on 1.7.2015.

(AMIT RAWAL)
JUDGE

May 21 , 2015
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