

**CM No.16083 of 2015 in/and
CWP No.23512 of 2015**

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CM No.16083 of 2015 in/and
CWP No.23512 of 2015
Date of Decision: 11.12.2015**

M/s Hansa Stone Crushing Company

... Petitioner

Versus

Mahender and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Shiv Kumar, Advocate,
for the petitioner.

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

RAJIV NARAIN RAINA, J. (Oral)

CM No.16083 of 2015

The application is allowed and the documents are taken on record. The main case is taken up today for hearing and final disposal.

Main Case

1. Heard the learned counsel for the petitioner in his challenge to the award passed by the Presiding Officer, Labour Court-III, Faridabad which denies reinstatement and awards an amount of Rs.31,500/- as compensation in lieu of reinstatement. The amount has been ordered to be paid with 9% interest from July 01, 2011. The Labour Court has returned a finding of fact that the relationship of employer and employee existed

between the petitioner-Firm and the workman-Mahender. The connecting evidence is a challan form signed by Mahender while driving the truck belonging to the firm after the truck driven by him as its driver met with an accident. The other evidence which has weighed with the Labour Court to establish employer-employee relationship are stone crusher bills in which the number of the truck is mentioned. It was this truck which met with an accident while being driven by Mahender.

2. Learned counsel submits that Exs.MW-1, MW-2 & MW-3 placed on record through the application reveal that the name of Mahender does not figure in the ESI returns filed by the petitioner on behalf of the firm. Though Mahender does not figure in that list but that is not conclusive evidence that he was not working with the management or that his services were not terminated illegally by the petitioner without complying with the provisions of law in the Industrial Disputes Act, 1947 ("the Act").

3. It is the further submission of the learned counsel that the truck in question as a matter of fact belongs to Pankaj Goyal who is the son of Naresh Goyal, the proprietor of the petitioner-Firm and the petitioner has nothing to do with it.

4. But it is not the defence taken in the written statement that Pankaj Goyal was the owner of the truck and the respondent [before the Labour Court, and presently petitioner/firm] was not responsible for his son's actions and therefore liability could not be fastened on the firm. The sum total of the defence in the written statement in the court below was as follows:-

"Nivedan hai ki aapke court ke notice ke sath jo

*patar Mahender Kumar ka mila hai weh Neradhar hai
kyoki Truck No. HR-38-P-2772 mera nahi hai aur na hi
mere pass hai aur truck hai esliye jab mere pass koi truck
hi nahi hai to Mahender Kumar mera worker kahan se ho
gaya esliye isse mera koi lena-dena nahi hai.*

*Kripiya mere is patar ko swikar kar is karyawahi ko
roka jaye.*

Dhanyawad''

5. It is clear and present that if the respondent before the Labour Court did not lie at least he suppressed facts as to ownership of the truck and, therefore, his defence was not accepted by the labour court as conscionable and on the other hand it amounts to suppression of material facts and withholding of information with respect to status of Truck No. HR-38P-2772.

6. In these circumstances, the discretionary remedy and supervisory jurisdiction of a writ is not appropriate to interfere with the award passed by the Labour Court. The award does not suffer from any fundamental flaw of law or fact or of reasoning. It is not for this Court to substitute its opinion for that of the Labour Court arrived at after appreciating the evidence produced by the parties on record.

7. It is not well settled that this Court does not sit in appeal against awards passed by the Labour Courts or Tribunals to re-appreciate findings facts and exercise of discretion and is restricted to the parameters laid down in **Syed Yakoob v. K.S. Radhakrishnan**; AIR 1964 SC 477; **Surya Dev Rai v. Ram Chander Rai**; (2003) 6 SCC 675 and **Satyanarayan Laxminarayan Hegde vs. Millikarjun Bhavanappa Tirumale**, AIR 1960 SC 137; (1960) 1 SCR 890.

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8 There is no substance in this petition and it is, therefore,
ordered to stand dismissed.

**(RAJIV NARAIN RAINA)
JUDGE**

11.12.2015
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