

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

Civil Writ Petition No.6133 of 2015 (O&M)

Date of decision: 13.8.2015

M/s Precision Tools Components

... Petitioners

Versus

Upender and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Anil Shukla, 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 is allowed and documents Annexure P-6 and P-7 are taken on record subject to just exceptions.

I would not interfere in this writ petition filed against the award of the Labour Court, Faridabad after hearing Mr.Shukla at length for two reasons; one, the management in its written statement did not categorically say that the respondent had not worked from 1.11.2008 to 1.5.2010 when a formal letter of appointment was issued to the workman as Helper in the factory run by the petitioner management at Faridabad.

In the reply which is not paragraphed or properly verified as the verification clause swears to the contents of the written statement as true and correct to the best of knowledge and belief without disclosing which

paragraphs are correct to knowledge and which one of belief. On the other hand, the workman in its claim statement asserted that he had worked for the period claimed. Mr.Shukla points out that the claim statement of the workman is without verification but that is not of any consequence since the workman has deposed on oath before the Labour Court in his testimony that he had worked for the period claimed and that is sufficient. If there was a defect in the written statement, it was not cured in the oral testimonies of the witnesses produced by the management since even there, there is no positive assertion that the workman did not work from 1.11.2008 to 1.5.2010.

The another reason why I would not like to interfere in the impugned award is that in the examination-in-chief of the management witness Mange Ram Manager to the M/s Precision Tools and Components, a reference has been made to the RCC under the Employees' State Insurance Corporation scheme from 1.10.2009 to 31.3.2010 and then for the period from 1.4.2010 to 30.9.2010 which were exhibited as M2 and M3 on the record of the Labour Court. Therefore, an adverse inference can be drawn by non-production of record from 1.11.2008 to 30.9.2009. The management has not clarified whether it was covered under the Employees' State Insurance Act prior to 1.10.2009 so that the production of record was not possible. The claim of the management based on a mere attendance and wages register from April, 2007 to March, 2011 has not been believed by the Labour Court and no trust and faith has been reposed in it. In any case, it is a private document which has to be viewed with circumspection. Such evidence would require corroboration by other contemporaneous evidence and the positive statement of the workman that he had served the

management from 1.11.2008 onwards is worthy of substance.

Lastly, Mr.Shukla submits that this is not a case of award of full back wages even if this Court comes to the conclusion that the Labour Court was correct in awarding reinstatement and continuity of service. It has been the view of the Full Bench of this Court in **Hari Palace, Ambala City v. Presiding Officer, Labour Court and another**, 1979 PLR 720 that ordinarily on reinstatement, back wages follow unless there are reasons necessitating departure. No such reasons have been propounded either in the pleadings of the management or during the course of arguments before the Labour Court as no such mention is made in the award and, therefore, this plea cannot be entertained for the first time in the judicial review of the award of the Labour Court. It can no longer be disputed in view of the award of the Labour Court that compliance of Section 25-F of the ID Act was mandatory and was breached and this is also another reason why I refrain from interfering with the impugned award.

The writ petition stands dismissed.

(RAJIV NARAIN RAINA)
JUDGE

August 13, 2015
Paritosh Kumar