

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

CWP No.7776 of 2015
Date of decision : 27.04.2015

Metso Mineral Mazdoor Union

...Petitioner

Versus

Presiding Officer, Labour Court, Gurgaon and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Ajay Chaudhary, Advocate
for the petitioner.

AMIT RAWAL, J. (Oral)

The petitioner has approached this Court for appropriate direction to Labour Court for deciding the reference case bearing No.585 of 2003, titled as “Metso Mineral Mazdoor Union, Bawal Versus M/s Metso Mineral (New Delhi) Pvt. Ltd., Bawal” as expeditiously as possible on the premise that the matter is pending since 2003. In fact there is already an order passed by this Court on 23.01.2006 (Annexure P-2) in a petition filed by workman co-placing of the onus of the alleged termination. The order is read as under:-

“The petitioner-Union has filed this petition to challenge order of Learned Industrial Tribunal-cum-Labour Court, Gurgaon dated 16.12.2004 (Annexure P-4) and particularly, framing of issue No.1, which is as follows:-

“1. Whether the retrenchment of 11 workers is illegal and unjustified? If so to what relief the workmen are entitled to? OPW”

The petitioner-Union has not challenged the actual framing of the issue but the placing of onus to prove the issue on the workman.

According to the learned counsel, the defence of the management is that the workmen were retrenched because they were surplus. Therefore, the workman would find it very difficult to prove that they were not surplus and as a consequence they would not be able to discharge the onus under issue No.1.

The main issue in this case would certainly be- Whether the retrenchment of the workman was illegal and unjustified. The placing of the onus to prove on the workman is a mere technicality. After the workman and the management have led evidence on issue No.1, it would be for the Labour Court to decide this issue. Onus to prove the issue would not really be a material factor. If the retrenchment is illegal and unjustified, the finding on this issue would go in favour of the workman but if the retrenchment was legal and justified, then finding may go against them.

Therefore, irrespective of the onus casts on the workman, it would be for the Labour Court to come to a conclusion whether retrenchment was justified or not.

The case before the learned Labour Court should be expedited and decided within six months.

The writ petition is dismissed with the above observations.

February 23, 2006

Sd/- (K.S. Grewal)

Judge

Sd/- (Pritam Pal)

Judge”

As per the zimni order placed on record at Page No.37 & 41 of the writ petition, Labour Court in view of the direction aforesaid has already been seeking extension from this Court. Moreover, the workman has taken almost 10 years in concluding evidence and, therefore, cannot be permitted to seek direction for expeditious disposal of reference at this stage when the matter is listed for Management evidence.

In view of aforementioned observation, no ground is made out for interference under Article 226/227 of the Constitution of India.

Accordingly, the present writ petition is dismissed.

27.04.2015

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**(AMIT RAWAL)
JUDGE**