

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 9288 of 2015
Date of decision : May 12, 2015

M/s RMS Leather Classic

..... Petitioner

Versus

Sanjay and another

..... Respondents

CWP No. 9304 of 2015

M/s RMS Leather Classic

..... Petitioner

Versus

Ram Kumari and another

..... Respondents

CWP No. 9308 of 2015

M/s RMS Leather Classic

..... Petitioner

Versus

Ram bai and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

**Present:- Ms. Madhu Ranjan, Advocate
for the petitioner.**

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).

Learned counsel for the petitioner submits that the petitioner-Management was not served notice of the proceedings of reference and they were only served for the first time when

application for setting execution ex-parte award.

He further submits that his client is willing to pay costs in case the ex-parte award is set aside and the Management be given an opportunity to contest the case on the premise that appointment letter produced by workman was forged and fabricated.

Be that as it may, the fact remains that the petitioner-Management was not given an opportunity, much less adequate opportunity to lead evidence in support of their case.

Learned counsel for the petitioner has also relied upon Rule 18 of the Industrial Tribunal Procedure Rules, 1949. Rule 18 reads as under:-

“Service of summons or notice:- Subject to the provisions contained in rule 20, any notice, summons, process or order issued by a Board, Court, Labour Court, Tribunal, National Tribunal or any Arbitrator empowered to issue such notice, summons, process or order, may be served either personally or by registered post and in the event of refusal by the party concerned to accept the said notice, summons, process or order, the same shall be sent again under certificate of posting.”

From the perusal of rules *ibid*, it is evident that notice ought to have been effected upon the Management. Service was effected only at the stage of execution proceedings and there was no occasion for the Labour Court to draw presumption of deemed service of notice sent by registered post against the Management.

The award dated 14.1.2014 is accordingly set aside.

The matter is remanded back to the Labour Court to decide the reference afresh within a period of six months from the date of receipt of certified copy of this order subject to payment of costs of ₹50,000/- to the workman to be paid on the date of appearance before the Labour Court.

The Labour Court shall hear and decide the case in accordance with law. In case the costs are not deposited the order of the Labour Court shall be deemed to be upheld. In case, the Management has been able to prove before the Labour Court that respondent No.1 was not their employee, then the Management shall be at liberty to seek refund of the 50% of cost deposited.

The writ petition is allowed accordingly.

Liberty is granted to the workman to move an application in case averments and contentions are found to be incorrect.

(AMIT RAWAL)
JUDGE

May 12 , 2015
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