

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

Civil Revision No.1852 of 2014

Date of Decision: 05.10.2016

Sahara Security & Man Power Services

.....Petitioner

Vs

Authority/Commissioner and another

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. I.S. Saggu, Advocate
for the petitioner.

Mr. Kunal Mulwani, Advocate
for the respondent No.2.

RAJ MOHAN SINGH, J.

[1]. Petitioner has assailed order dated 22.01.2014 (Annexure P-6) passed by the Authority Under the Payment of Wages Act, 1936-Circle I, Faridabad, whereby application of the respondent for restoration of the case was allowed.

[2]. Brief facts of the case are that respondent No.2 filed a claim petition against the petitioner alleging that petitioner is responsible for wages under Section 3 of the Payment of Wages Act 1936 (hereinafter to be referred as 'the Act'). Respondent No.2 claimed salary for eight months as well as compensation amount to ten times of the amount claimed. The

claim of respondent No.2 was contested by the petitioner.

[3]. In due course, the case came up for hearing before the Authority and the same was dismissed in default vide order dated 29.04.2011. An application was filed by respondent No.2 for restoration of the claim petition on 13.03.2013 on the ground that when the case was fixed for 15.04.2011, it was adjourned for 29.04.2011. The previous counsel/authorised representative of the claimant told the applicant/respondent No.2 that his appearance was not necessary and as and when his presence was felt necessary, he would be intimated. Thereafter, respondent No.2 could not get any information of the case from his counsel and ultimately he filed an application under Right to Information Act before the Labour Commissioner. Thereafter he came to know that the case was dismissed for non-prosecution. Consequent proceedings were filed thereafter.

[4]. The application was contested by the petitioner. The Authority appointed under the Act vide order dated 22.01.2014 restored the case.

[5]. Learned counsel for the petitioner by referring to Rule 8(3) of the Payment of Wages (Procedure) Rules, 1937 (for short 'the Rules') contended that the claim petition should not have been restored as no good cause has been shown for

seeking restoration of the case, nor any application was moved for condonation of delay. The application for restoration was time barred.

[6]. Learned counsel for the petitioner vehemently submitted that since the Court had no power to extend the period of limitation on equitable grounds, therefore, the inconvenience caused to claimants was wholly inconsequential in view of law laid down in **Popat Bahiru Govardhane vs. Special Land Acquisition Officer, 2013(10) SCC 765.**

[7]. Perusal of the relevant Rule brought out on record revealed that as per provision in terms of Rule 8(3) of the Rules, the Authority was bestowed with power to re-hear the case on showing good cause. Limitation for challenging the order can be considered, even in the application for condonation of delay.

[8]. Learned counsel for respondent No.2 placed reliance upon **State of M.P. vs. Pradeep Kumar, 2000(4) RCR (Civil) 730** and **Karam Pal vs. Ramesh Jain, 2009(2) RCR (Civil) 613**, wherein the restoration was ordered, even without filing application for condonation of delay on showing good cause. Mere lapse on the part of the counsel was not construed to be sufficient to deny the relief in favour of the claimant. Though the law helps those, who are vigilant, but it is also true that even a

vigilant litigant is prone to mistakes unintentionally and omission on the part of litigant cannot stand in the way to decide the controversy on merits.

[9]. The Authority Under the Payment of Wages Act, is not a Court subordinate to the High Court. This Court in revisional jurisdiction has a very limited scope to interfere with the findings of the Authority. Once the jurisdiction was exercised by the Authority under the Act, the powers under Article 227 of the Constitution of India under supervisory jurisdiction of this Court is very limited. The equitable jurisdiction by the Authority in restoring the claim petition in considered opinion of this Court is justified. The condonation of delay can be made, even on the basis of oral prayer in view of observations made by the Division Bench of this Court in **Partap Singh vs. State of Haryana and another, 1979 PLJ 48.**

[10]. In deciding the controversy of the present type more particularly the application for restoration, the Court should adopt a pragmatic approach. The technicalities should not come against the cause of justice. The cause of justice should not be ignored at the altar of technicality.

[11]. Having considered the controversy, the order passed by the Authority under the Act appears to be reasonable and no

interference is called for in supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

October 05, 2016

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned Yes / No

Whether reportable Yes / No