

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

**CWP No.20011 of 2009
Date of Decision: 27.07.2016**

M/s Sky Lab Industries, Faridabad

..... Petitioner

Versus

**The Presiding Officer, Labour Court-II, Faridabad and another
.... Respondents**

CORAM: HON'BLE MR. JUSTICE P. B. BAJANTHRI

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

Mr. Bikramjit Singh Patwalia, Advocate
for respondent No.2.

Mr. Anil Mehta, DAG, Haryana.

P. B. BAJANTHRI J. (ORAL)

In the instant petition, the petitioner-industry has questioned the award dated 27.01.2009 (Annexure P-6) passed by the Labour Court-II, Faridabad. According to the petitioner, the deceased-workman was appointed on 01.06.1985 but according to the second respondent, he was appointed on 03.10.1978. The deceased-workman when working as a helper, requested the petitioner-industry that his financial position is weak and he cannot work, therefore, he had requested to pay bonus upto 15.03.2004. The petitioner-industry acted upon the respondent's application dated 16.02.2004. Instead of giving bonus, they have settled the gratuity amount for 19 years i.e. from 01.06.1985 to 2004 in which they have stated that it is full and final payment.

Consequently, the deceased-workman issued a demand

notice on 02.02.2005 contending that his services have been terminated. The petitioner-industry filed a written statement before the Labour Court, however, they remained *ex parte* as on 27.01.2009. Thus, the Labour Court proceeded *ex parte* proceedings and passed award in favour of the deceased-workman while directing the petitioner to reinstate the workman with continuity of service and payment of 50% back wages. Aggrieved by the award of the Labour Court dated 27.01.2009, the present writ petition has been filed.

Learned counsel for the petitioner submitted that on 16.02.2004, the petitioner submitted an application for grant of bonus which reads as follows:-

“To

*The Manager
M/s Sky Lab Industries,
56 C/1 Industrial Area,
N.I.T. Faridabad.*

Sir,

*It is submitted that due to
my weak financial position I cannot work.
Kindly pay me the amount of bonus upto
15.03.2004. I shall be thankful to you.*

*Yours employee
Sd/-
Satnam Singh*

*Accepted
Sd/-
16/02”*

Pursuant to the application (Annexure P-1) instead of granting bonus as requested by the workman, gratuity amount for the period of 19 years has been settled by issuing three cheques and cash of ₹ 1,120/-. Since the petitioner has given his resignation and final

settlement has been made vide Annexure P-2, contention of the workman that his services have been terminated may not hold good.

Per contra, learned counsel for the respondent-workman submitted that reading of Annexure P-1 do not indicate that the workman has resigned the post. Annexure P-1 is evident that he is financially weak and he cannot work and requested for settlement of bonus upto 15.03.2004 and the same has been accepted on 16.02.2004 by the petitioner-industry. Instead of giving bonus, the petitioner has settled gratuity amount for 19 years service rendered by the workman. No document has been produced by the petitioner to contend that workman has submitted his resignation and it has been accepted, therefore, there is no infirmity in the award of the Labour Court.

Even if the matter is remanded back to the Labour Court insofar as the reinstatement of the workman continuity in service and 50% back wages cannot be ordered for the reasons that workman died during pendency of the litigation, therefore, adequate compensation be awarded.

Heard learned counsel for the parties.

Perusal of Annexures P-1 and P-2 do not reveal that workman had resigned the post and final settlement has been made with reference to the acceptance of resignation. In both the documents nowhere a word of 'resignation' is forthcoming, therefore, contention of the petitioner that the workman has resigned the post and the monetary benefits have been settled in finally cannot be accepted. Insofar as *ex parte* award of the Labour Court is

concerned, at this juncture, it is not feasible to remand the matter. Having regard to the developments that the workman has died during the pendency of the litigation, there is a dispute relating to date of appointment, the petitioner contend that workman was appointed on 01.06.1985 whereas the workman contended that he was appointed as helper on 03.10.1978. In order to give quietus to the litigation, the petitioners are directed to pay compensation of Rs.5 lacs to the legal heirs of the workman within a period of four months from today. If the compensation of Rs.5 lacs is not paid within four months, the legal heirs of the workman are entitled to interest on the compensation at the rate of 9% per annum after completion of four months period.

The writ petition stands disposed of.

(P. B. BAJANTHRI)
JUDGE

July 27, 2016

rittu