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

CWP-1205-2016

Date of decision: 21.01.2016

Total Tele-film Private Limited through its authorized
representative

..... Petitioner

VERSUS

Presiding Officer, Industrial Tribunal & Labour Court, Union
Territory, Chandigarh and another

..... Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Ms. Savita Rana, Advocate
for the petitioner.

SABINA, J.

Petitioner has filed this petition under Article 226 of
Constitution of India seeking a writ in the nature of certiorari for
quashing the award dated 01.09.2014 (Annexure P-4).

Petitioner had raised an industrial dispute by serving
a demand notice challenging his termination. The dispute raised
by the petitioner was referred for adjudication to the Industrial
Tribunal-cum-Labour Court of Union Territory, Chandigarh by
the appropriate Government.

The Industrial Tribunal-cum-Labour Court vide its award dated 01.09.2014 answered the references in favour of respondent No.2-workman and awarded ₹ 20,000/- by way of compensation. Hence, the present petition by the petitioner.

Learned counsel for the petitioner has submitted that the respondent No.2 did not fall within the definition of workman. In fact, the Court at Chandigarh did not have the jurisdiction to adjudicate the matter and the appropriate remedy available to respondent No.2 was to approach the arbitrator for redressal of his grievance.

The case of respondent No.2, in brief, was that he was working as Bureau Chief with the petitioner at Chandigarh on a monthly salary of ₹ 23,000/- including other expenses as per appointment letter dated 21.03.2015. Subsequently, respondent No.2 was promoted as a political leader and was posted at Delhi and thereafter he was again transferred to Chandigarh as Bureau Chief vide letter dated 14.07.2006. Salary of respondent No.2 was enhanced to ₹ 25,000/- per month w.e.f. July, 2007. Respondent No.2 was not paid his wages w.e.f. September, 2007. In December 2007, cheque in the sum of ₹ 23,000/- was issued in favour of respondent No.2 qua salary for the month of September, 2007. However, when the cheque was presented for encashment, it was dis-honoured by the bank due to insufficient funds and complaint under Section 138 of the Negotiable Instruments Act, 1881 was

pending in the Court at Chandigarh. Ultimately, the services of the petitioner were illegally terminated in violation of provisions of Section 25-F, 25-G and 25-H of the Industrial Disputes Act, 1974 (for short Act). Respondent No.2 claimed reinstatement in service with continuity of service and full benefits.

Petitioner in its written statement admitted that the respondent No.2 was working as Bureau Chief at Chandigarh. It was further averred that the complaint filed by respondent No.2 under Section 138 of the Act had been withdrawn. In fact, respondent No.2 had himself left the job due to some psychiatric problem and had not worked from September, 2007 to February, 2008.

On the pleadings of the parties following issues were framed by the Labour Court:-

1. *"Whether the services of the workman were terminated illegally by the management, if so, to what extent and to what relief he is entitled to, if any? OPW*
2. *Whether the reference is not maintainable ? OPM*
3. *Whether Shri Jagmohan Phutela is not covered under the definition of the workman as defined in Section 2(s) of the ID Act? OPM*
4. *Relief."*

Respondent No.2 led his evidence in support of his case. On 15.01.2013, none appeared on behalf of the petitioner

before the Industrial Tribunal-cum-Labour Court and the case was adjourned to 06.03.2013 for evidence of the petitioner. However, on the said date also, none appeared on behalf of the petitioner and it was proceeded ex parte.

Respondent No.2 while appearing in the witness-box deposed as per the contents of his claim. Since the evidence led by respondent No.2 had gone unrebutted, the learned Industrial Tribunal-cum-Labour Court had rightly held that the services of the respondent No.2 had been terminated illegally in violation of the provisions of the Act. While granting relief, the learned Industrial Tribunal-cum-Labour Court awarded ₹ 60,000/- by way of compensation to respondent No.2, in lieu of reinstatement. Since the petitioner was aware of the pendency of the case and had filed its written statement and had failed to appear before the Industrial Tribunal-cum-Labour Court when the case was listed before it for management evidence, no ground for interference by this Court is made out. The Industrial Tribunal-cum-Labour Court has passed the award on the basis of evidence available on record.

Dismissed.

January 21, 2016
Ramandeep Singh

(SABINA)
JUDGE