

125-2

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

CWP-1264-2016

Date of decision: 21.01.2016

Total Tele-film Private Limited through its authorized
representative

..... Petitioner

VERSUS

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

..... Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. 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 of the order dated 01.09.2014 (Annexure P-1) passed
by the Industrial Tribunal-cum-Labour Court, U.T. Chandigarh in
an application under Section 33 (c) (2) filed by the respondent
No.2.

Learned counsel for the petitioner is permitted to
place on record the complete copy of the impugned order.

I have heard learned counsel for the petitioner and gone through the record available on the file carefully.

Respondent No.2 had filed application under Section 33 (c) (2) of the Industrial Disputes Act, 1947 (for short Act) claiming wages w.e.f. October, 2007 to February, 2008 at the rate of ₹ 25,000/- per month alongwith interest.

The case of the respondent No.2 was that he was working with the petitioner since 21.03.2005 and his services had been terminated in February, 2008. Respondent No.2 had not been paid his salary w.e.f. October, 2007 till the date of his termination. In December, 2007 cheque in the sum of ₹ 23,000/- was issued in favour of respondent No.2 towards the salary for the month of September 2007, but the same was dis-honoured by the bank due to insufficient funds and complaint under Section 138 of the Negotiable Instruments Act, 1881 was pending, in this regard.

Petitioner in its written statement admitted that the respondent No.2 was working with it as Chief Reporter/ Bureau Chief at Chandigarh and could not be described as a workman as he was working in supervisory, administrative and managerial capacity. Respondent No.2 had himself left the job in the end of September, 2007. In the criminal complaint filed by respondent No.2, he had settled all his dues and had withdrawn his complaint.

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

- (1) Whether the applicant is entitled to receive any amount from the respondent, if so, to what extent and to what relief he is entitled to, if any? OPA
- (2) Whether the application is not maintainable? OPR
- (3) Whether, Shri Jagmohan Phutela is not covered under the definition of the workman as defined in section 2(s) of the ID Act ? OPR
- (4) Relief.

Respondent No.2 led his evidence in support of his case. On 15.01.2013, none had appeared on behalf of the petitioner before the Industrial Tribunal-cum-Labour Court and case was adjourned for its appearance to 06.03.2013. On the said date also, none appeared on behalf of the petitioner and it was proceeded ex parte.

In his ex parte evidence, respondent No.2 deposed as per the contents of his claim. Respondent No.2 while appearing in the witness-box as AW-1 deposed that he had not been paid his salary w.e.f. October, 2007 to February, 2008 at the rate of ₹ 25,000/- per month. Since there was no evidence on record to the contrary, learned Industrial Tribunal-cum-Labour Court had rightly allowed the application moved by respondent No.2 under Section 33 (C) (2) of the Act. It is not a

case where the petitioner was not aware of the pendency of the application. Rather the petitioner had appeared before the Industrial Tribunal-cum-Labour Court and filed its reply but had failed to pursue the case, at the stage, when it was fixed for its evidence. It is evident that the petitioner was not pursuing the case diligently.

In the facts and circumstances of the present case, no ground for interference by this Court while exercising the jurisdiction under Article 226 of the Constitution of India is made out.

Dismissed.

January 21, 2016
Ramandeep Singh

(SABINA)
JUDGE