

CWP-1590-2016

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In the High Court of Punjab and Haryana at Chandigarh.

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Date of Decision:10.02.2016

M/s Jain Engineering Works

...Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court,
Circle-I, Faridabad and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Tushar Sharma, Advocate,
for the petitioner.

SABINA, J.

Petitioner has filed this petition under Article 226 of the Constitution of India challenging the award dated 13.08.2015 (Annexure P-6).

Respondent No.2 had raised an industrial dispute by serving a demand notice challenging his termination. The said dispute was referred for adjudication to Industrial Tribunal-cum-Labour Court by the appropriate Government.

Case of respondent No.2 was that he was working with the Management as Drill Man since 24.10.2004 on a salary of ₹2900/-. When respondent No.2 demanded salary as

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was admissible to Operator, his services were illegally terminated on 05.06.2008.

Case of the petitioner, on the other hand, was that respondent No.2 had resigned on 05.06.2008 after receiving full and final settlement of his claim i.e. ₹6,137/-.

On the pleadings of the parties, following issues were framed by the Tribunal:-

- “1. Whether the services of the claimant were terminated illegally? If so, to what effect? OPW*
- 2. Whether the reference is not maintainable? OPR*
- 3. Relief.”*

Parties led their evidence in support of their respective pleas.

Respondent No.2 appeared in the witness box as WW-1 and tendered some documents in his evidence. Thereafter, petitioner examined MW-1 Satish Kumar Bhatia and tendered some documents on record. However, the said witness was not cross-examined. Vide Annexure P-5, workman was proceeded ex parte as none has appeared on his behalf on 20.03.2015. Labour Court after appreciating the evidence on record answered the reference in favour of the workman. Hence, the present petition by the petitioner-Management.

Learned counsel for the petitioner has submitted

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that since the workman had been proceeded ex parte, Labour Court could not have answered the reference in favour of the workman. The witness examined by the petitioner-management had not been cross-examined and his statement was liable to be believed as it had gone uncontroverted.

In the present case workman-respondent No.2 had raised an industrial dispute challenging his termination and the dispute had been referred to Industrial Tribunal-cum-Labour Court for adjudication. In this situation, Industrial Tribunal-cum-Labour Court was required to answer the reference on merits as per the evidence available on record and the reference could not have been dismissed in default.

Respondent No.2 while appearing in the witness-box deposed as per the contents of his claim petition. The case of the petitioner-management was that respondent No.2 had himself submitted his resignation on 05.06.2008 after accepting the dues liable to be paid to him. It has been noticed by the Industrial-Tribunal-cum-Labour Court that the resignation letter and voucher Exhibit M-1 and Exhibit M-2 proved on record by the petitioner-management were dated 30.01.2009. Thus these document had been prepared by the Management about six months after the alleged resignation and collection of dues by the workman. The workman while appearing in the witness-box had denied his signatures on

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Exhibit M-1 and Exhibit M-2. In case workman had already resigned after accepting the dues on 05.06.2008, there was no occasion for him to have executed the resignation and voucher Exhibit M-1 and Exhibit M-2 on 30.01.2009. In these circumstances, the learned Industrial Tribunal-cum-Labour Court rightly came to the conclusion that Exhibit M-1 and Exhibit M-2 were apparently fabricated documents and did not inspire confidence. Thus, there was nothing on record to suggest that the services of respondent No.2 had been terminated in accordance with law. Consequently, respondent No.2 was entitled for reinstatement in service with other consequential benefits.

In the facts and circumstances of the present case, the award passed by the Industrial Tribunal-cum-Labour Court is valid and no ground for interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India is made out.

Dismissed.

February 10, 2016
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(SABINA)
JUDGE