

In the High Court of Punjab and Haryana at Chandigarh

Civil Writ Petition No. 1766 of 2014
Date of Decision: 10.2.2016.

Khushi Ram

.....Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-
Labour Court, Rohtak and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sandeep Singal, Advocate
for the petitioner.

Mr. Kulvir Narwal, Advocate
for respondent No. 2.

SABINA, J.

Petitioner has filed this petition under Article 226 of the Constitution of India challenging the order dated 7.11.2013 (Annexure P-5) whereby issue No. 1 was decided by the Industrial Tribunal-cum-Labour Court.

Learned counsel for the petitioner has submitted that while deciding issue No. 1, the Industrial Tribunal-cum-Labour Court had not considered the statements of the witnesses made before the Tribunal/Labour Court.

Learned counsel for respondent No. 2, on the other hand, has submitted that the writ petition was liable to be dismissed as the petitioner can challenge the award passed by the Labour Court after the decision of the issues, if aggrieved, but could not challenge the decision of the Industrial Tribunal-cum-

Labour Court qua preliminary issue No. 1. In this regard, learned counsel has placed reliance on '**D.P.Maheshwari versus Delhi Admn. and others, 1984 AIR (SC) 153**', wherein it was held as under:-

“It is also worth while remembering that the nature of the jurisdiction under Article 226 is supervisory and not appellate while that under Article 136 is primarily supervisory but the Court may exercise all necessary appellate powers to do substantial justice. In the exercise of such jurisdiction neither the High Court nor this Court is required to be too astute to interfere with the exercise of jurisdiction by special tribunals at interlocutory stages and on preliminary issues.”

Petitioner has raised an industrial dispute challenging his termination by serving a demand notice. The dispute was referred to Industrial Tribunal-cum-Labour Court, Rohtak for adjudication by the appropriate Government.

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

- “1. Whether the mgt. has conducted a fair and proper enquiry ?*
- 2. As per terms of reference ?*
- 3. Whether the reference is bad in law ?*
- 4. Relief.”*

Issue No. 1 was treated as a preliminary issue and was disposed of vide order dated 7.11.2013 (Annexure P-5). In view of the decision of the Apex Court in *D.P.Maheshwari's* case (supra), it

would not be just and expedient for this Court to interfere while exercising jurisdiction under Article 226 of the Constitution of India with the impugned order whereby preliminary issue had been decided. In fact, petitioner, if so aggrieved, would be at liberty to challenge the award passed by the Industrial Tribunal-cum-Labour Court including the decision on issue No. 1.

Petition stands disposed of accordingly.

**(SABINA)
JUDGE**

February 10, 2016
Gurpreet