

115-2

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

**CWP No.2095 of 2016**

**Date of decision: February 02, 2016**

Naresh Kumari

.....Petitioner

Versus

The Presiding Officer and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

**Present:** Mr. Raj Kaushik, Advocate  
for the petitioner.

\*\*\*\*\*

**SABINA, J**

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of certiorari challenging the order dated 21.12.2015 (Annexure P-7), whereby, application moved by respondents No.2 to 4 for setting aside the *ex parte* award dated 01.04.2014, was allowed.

Learned counsel for the petitioner has submitted that respondents No.2 to 4 had not been diligent in pursuing their case. In fact, respondents No.2 to 4 were earlier proceeded *ex parte* vide order dated 19.07.2011 and the said order was set aside on an application moved by respondents No.2 to 4. Thereafter, respondents No.2 to 4 had again failed to appear before the Tribunal on 23.10.2012. The Tribunal has erred in allowing the application moved by respondents No.2 to 4 for setting aside *ex parte* award in favour of the petitioner vide the impugned order.

Petitioner had raised an industrial dispute challenging his termination by serving a demand notice. The appropriate Government referred the dispute for adjudication to the Industrial Tribunal, Patiala. Petitioner submitted its statement of claim before the Tribunal and the management filed its written statement. Issues were framed on the pleadings of the parties. However, none appeared on behalf of the respondents-management on 19.07.2011 and it was proceeded *ex parte*. The said order was set aside on an application moved by the Management. Thereafter, Management again failed to appear before the tribunal on 23.10.2012 and was proceeded *ex parte*. On the basis of the evidence led by the petitioner, the Tribunal answered the reference in favour of the petitioner vide award dated 01.04.2014. Petitioner was ordered to be reinstated in service but without back-wages. Thereafter, respondents No.2 to 4 moved an application Annexure P-5 for setting aside the *ex parte* award dated 01.04.2014 (Annexure P-4). Notice of the application was issued.

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

- "1. Whether the *ex-parte* order dated 1.4.2014 is liable to be set aside? OPA/R
2. Whether the application is not maintainable? OPW
3. Relief."

Parties led their evidence in support of their respective pleas.

The learned Tribunal while allowing the application held that as per AW-2 Rupinder Pal Singh Bal, Pardeep Kaur was deputed to pursue the case and, although, the said official appeared before the Tribunal on each and every date but failed to get her presence marked. The absence of the department before the Tribunal was not intentional. The learned Tribunal has noticed that the respondents were contesting the case initially and it would be in the interest of justice, if they were permitted to appear and lead their evidence so that the case could be decided on merits. The Tribunal has allowed the application subject to payment of ₹3,000/- as costs. The view taken by the Tribunal is just and fair. Now the respondents will be able to prove the pleas taken by them in their written statement by leading their evidence and the Tribunal would be in a position to decide the lis between the parties in a more effective manner and on merits after hearing both the sides.

In the facts and circumstances of the present case, the impugned order does not suffer from the vice of illegality and calls for no interference.

Dismissed.

**(SABINA)  
JUDGE**

**February 02, 2016**  
mahavir