

In the High Court of Punjab and Haryana at Chandigarh

Civil Writ Petition No. 25635 of 2013
Date of Decision: 19.1.2016.

Davinder Pal Singh

.....Petitioner

Versus

Presiding Officer, Industrial Tribunal,
Ludhiana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. H.S.Saggu, Advocate
for the petitioner.

Mr. Rahul Sharma, Advocate
for respondent No. 2.

SABINA, J.

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of certiorari for quashing of the order dated 14.10.2013 (Annexure P-1).

Learned counsel for the petitioner has submitted that the petitioner had raised an industrial dispute challenging his termination but the said reference was withdrawn by the petitioner due to technical error and the petitioner had reserved the right to raise a fresh dispute after rectifying the error. The reference was answered accordingly. Thereafter, the petitioner served a fresh demand notice and the Industrial Tribunal had declined the reference on the ground that it was not maintainable. Learned counsel has further submitted that the tribunal should have answered the reference on merits.

Learned counsel for respondent No. 2, on the other

hand, has opposed the petition and has submitted that the petitioner had again raised the industrial dispute by impleading the same respondent.

In the present case, petitioner had raised an industrial dispute challenging his termination. The dispute raised by the petitioner was referred for adjudication to the Industrial Tribunal. The said reference was disposed of on the basis of the statement made by the representative of the petitioner which reads as under:-

“I do not press the reference for the time being due to technical error i.e. wrong name of the respondent and I reserve the right to file fresh dispute after rectifying the said error. The reference be answered accordingly.”

Thereafter, petitioner again served a fresh demand notice and the same was referred for adjudication by the appropriate government to the Industrial Tribunal. The learned Industrial Tribunal fell in error while dismissing the reference as not being maintainable whereas the same should have been answered on merits. Petitioner had not pressed the earlier reference due to technical error and had reserved his right to raise the dispute afresh. The dispute again raised by the petitioner was duly referred to the Industrial Tribunal for adjudication. The learned tribunal held that the petitioner had failed to rectify any error and had raised the fresh dispute against the same respondent. Be that as it may, the learned Industrial Tribunal should have answered the reference on merits once the dispute was referred to it for adjudication. The aspect which required to be considered by the tribunal was as to whether the dispute was in existence or not and not decline the reference on technical grounds.

Accordingly, this petition is allowed. Impugned order dated 14.10.2013 (Annexure P-1) is set aside. The tribunal is directed to dispose of the reference on merits, in accordance with law. Parties are directed to appear before the tribunal on 14.3.2016.

**(SABINA)
JUDGE**

January 19, 2016
Gurpreet