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

CWP No.25689 of 2015

Date of decision: January 29, 2016

M/s Dewan Chand & Company

.....Petitioner

Versus

The Presiding Officer and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sachin Mittal, 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 for quashing award dated 13.12.2013 (Annexure P-2).

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

The case of respondent No.2, in brief, was that he had joined the petitioner-Management as Operator on 15.11.2005. However, services of respondent No.2 were terminated on 27.11.2010 without complying with the provisions of Section 25F of the Industrial Disputes Act, 1947 ('Act' for short).

Notice was issued to the petitioner, but it failed to appear despite service and was proceeded *ex parte*.

Respondent No.1 led his evidence in support of his case. Industrial Tribunal-cum-Labour Court vide its award dated 25.01.2012, after going through the evidence led by respondent No.2, held that the services of respondent No.2 had been illegally terminated. Petitioner-Management was directed to reinstate respondent No.2 with continuity of service and 40% back-wages on the basis of last drawn salary.

Learned counsel for the petitioner has submitted that summons had not been duly served on the petitioner-Management. In fact, as per the report of the process server, notice had been received by Sukhdev security supervisor. The security personnel were hired by the petitioner-Management through contractors. Hence, the service of summons accepted by security supervisor could not be described as due service on petitioner-Management.

Annexure P-3 is the report of the process server on the notices issued to the Workman as well as to the Management by the Industrial Tribunal-cum-Labour Court. A perusal of the same reveals that so far as the notice sent to the petitioner-Management is concerned, it was received by Sukhdev security supervisor. Thus, the petitioner-Management was duly served with the summons. The process server had handed-over the copy of notice to the security supervisor. Despite service of summons, petitioner-

Management, none chose to appear on its behalf before Industrial Tribunal-cum-Labour Court. In these facts and circumstances, the Industrial Tribunal-cum-Labour Court was left with no option, but to initiate *ex parte* proceedings against the petitioner-Management. The fact as to whether the security supervisor was appointed directly by the petitioner or through contractor is not relevant for consideration. The security supervisor who received the summons was deployed at the premises of the petitioner and service effected through him on the petitioner is valid.

Respondent No.2 in order to prove his case appeared in the witness-box and deposed as per the contents of his claim. Respondent No.2 also proved on record the failure report of the Labour-cum-Conciliation Officer. In the said proceedings, petitioner-Management had appeared on three dates and from this, it can be inferred that the petitioner-Management was in the knowledge of the fact that an Industrial dispute had been raised by the Workman. From the *ex parte* evidence led by respondent No.2, it was evident that he had served the petitioner-Management from 15.11.2005 to 27.11.2010 and his services had been illegally terminated without complying with the mandatory provisions of the Act. Hence, the learned Industrial Tribunal-cum-Labour Court rightly ordered that respondent No.2 was entitled for reinstatement in service.

No ground for interference by this Court while

exercising jurisdiction under Article 226 of the Constitution of India, is made out.

Dismissed.

(SABINA)
JUDGE

January 29, 2016
mahavir