

CWP-5676-2016

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In the High Court of Punjab and Haryana at Chandigarh.

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Date of Decision:28.03.2016

National Fertilizer Limited

....Petitioner

Versus

Nangal Fertilizer Workers Union and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Vipin Mahajan, 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 the award dated 12.12.2014 which was later corrected on 12.08.2015 vide Annexure P-11.

Learned counsel for the petitioner has submitted that ₹5/- were deducted from the salary of each workman in pursuance to the letter written by respondent No.4-registered Trade Union. The amount was deducted in pursuance to letter, Annexure P-2. The union utilized the said amount for the welfare of all the workers who were working under the petitioner. The said practice was being followed since long and as per the request of the elected union. In pursuance to

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letter Annexure P-2, the amount of ₹5/- per month deducted from the salary of the workmen, was deposited in the account of respondent No.4.

In the present case, respondents No.1 and 2 had raised an industrial dispute challenging the action of the petitioner-management qua deduction of ₹5/- per month made from the salary of the members of the union-respondents No.1 and 2. The dispute raised by respondents No.1 and 2 was referred for adjudication to the Industrial Tribunal-cum-Labour Court, Chandigarh. The Industrial Tribunal-cum-Labour Court, Chandigarh vide award dated 12.12.2014, later corrected vide order dated 12.08.2015, answered the reference in favour of respondents No.1 and 2. Hence, the present petition by the petitioner-management.

Admittedly, the members of union-respondents No.1 and 2 are not members of union-respondent No.4. In fact, request had been made by union-respondent No.4 vide Annexure P-2 that ₹5/- be deducted from salary of each workman towards union fund.

Section 7(kk) of Payment of Wages Act, 1936, reads as under:-

“deductions made, with the written authorisation of the employed person, for the payment of his

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contribution to any fund constituted by the employer or a trade union registered under the Trade Unions Act, 1926 (16 of 1926), for the welfare of the employed persons or the members of their families, or both, and approved by the [the appropriate Government] or any officer specified by it in this behalf, during the continuance of such approval.”

Thus, as per the above provision the management has the power to deduct for payment of contribution of workmen to any fund with written authorization of the employed person. Admittedly, the members of union-respondents No.1 and 2 are not members of union-respondent No.4. In these circumstances, any request made by union-respondent No.4 qua deduction from the salary of the workmen would not bind the workmen who are members of union-respondents No.1 and 2. In these circumstances, the learned Labour Court, rightly, held that the respondent-management was not legally capable of deducting any amount from the salary of the workers/members of union-respondents No.1 and 2 at the instance of a third party and without the consent of the workers.

Hence, no ground for interference by this Court while exercising jurisdiction under Article 226 of the

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Constitution of India, is made out.

Dismissed. However, petitioner-management would be at liberty to recover the amount in question from respondent No.4, in accordance with law.

March 28, 2016
kapil

(SABINA)
JUDGE