

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

LPA no.1829 of 2015 (O&M)

Date of Decision :10.11.2016

M/s Dynamic Fashion Pvt. Ltd.

....Appellant(s)

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Gurgaon and
others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE DR. SHEKHER DHAWAN**

**Present : Mr.Rajiv Sharma, Advocate for the appellant
Mr. Jagbir Malik, Advocate for respondent - workman**

MAHESH GROVER, J.

The appellant impugns the judgment of the learned Single Judge dated 8.10.2015 . The respondent – workman had claimed a reference questioning the termination of his services on the ground of absence from duty without holding an inquiry. Labour Court declined the reference leading to the filing of the writ petition which was accepted.

The respondent – workman raised a plea that he had never been served before the Labour Court as also before the writ Court.

Learned Single Judge looked at the records of the Labour Court to conclude that valid service of the inquiry proceedings was never effected upon the workman and thus the inquiry stood vitiated. The writ Court then went on to conclude in favour of the workman to order reinstatement with continuity of service. We may add here that the period of absence from the duty is about a fortnight and the total period of service rendered by the workman with the appellant is about 5 years.

Learned counsel for the appellant contends with reference to the material on record that the service was duly effected on the address furnished by the workman himself at the time of gaining employment.

We have seen an affidavit furnished by the workman and notice that the address given by him was of village Bandh, Tehsil Ishrana, District Panipat, Haryana and the registered covers which have been appended to the appeal and were also before the writ Court, besides the record of the Labour Court does not indicate this. Rather address is vague and thus no importance can be attached to such attempts of effecting service rather they can be wished away as manipulating tactics of the appellant. Accordingly, we do not find any reason to interfere with the findings recorded by the learned Single Judge i.e workman was never served in accordance with law and therefore entire proceedings stood vitiated. If that be so then the entire action of the appellant in terminating services would also be construed to be illegal. Reinstatement in these circumstances would be a natural course and hence we do not find any reason to interfere with the findings recorded by the learned Single Judge. Workman be reinstated forthwith alongwith all consequential wages. However, before parting with the judgment we may observe that this will not preclude the appellant from holding a proper inquiry against the workman to establish his mis-conduct and taking appropriate action against him, if situation so warrants.

Disposed of.

(Mahesh Grover)
Judge

(Shekher Dhawan)
Judge

10.11.2016

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No