

LPA No. 68 of 2016 (O&M)

Date of decision : April 04, 2016

M/s J.V. and Company

.....Appellant

Versus

Presiding Officer and another

.....Respondents

**CORAM:- HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MRS. JUSTICE LISA GILL**Present: Mr. Sachin Mittal, Advocate
for the appellant.

Mahesh Grover, J.**C.M. No. 148 of 2016**

For reasons stated in the application and arguments addressed, the application is allowed and delay of 12 days in re-filing of the appeal is condoned.

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The appellant has challenged the judgment of learned Single Judge dated 06.10.2015 by way of the present appeal. The exparte award was questioned by the appellant in the writ proceedings, where the challenge was negated.

The facts would indicate that the workman's services were terminated in the year 2007 upon which he claimed a reference, where notice was issued to the appellant to appear and contest.

After filing the written statement, they defaulted on 01.10.2010 and were proceeded against exparte. Upon application being moved by them for setting aside the order, the same was accepted to permit the appellant to re-join the proceedings but another default was committed on 21.01.2011 whereafter they did not participate in proceedings leading to an exparte award dated 30.03.2011 warranting reinstatement of the workman with 50% back wages. No continuity of services was, however, granted to the workman.

Learned Single Judge noticed these facts to observe that when the management had failed to pursue its case with diligence, no indulgence could be shown. He further noticed that even equitable considerations would dictate the negation of the appellant's plea.

Before this Court, learned counsel for the appellant has contended that they would be willing to compensate the workman with some costs if an opportunity of hearing is granted to them before the Labour Court.

We are, however, not convinced with the argument particularly when no justification has been shown for committing repeated defaults in appearance before the labour Court. Besides, it is also evident from the record that when conciliation proceedings took place, the workman was assured reinstatement but this settlement was not respected.

We, thus, do not find any reason as to why the appellant should be given an opportunity to re-open the matter when there was

repeated default by themselves with no justification coming on record for it and further bonafides of the appellant are seriously in question when they offered reinstatement of the workman in conciliation proceedings, which offer did not intend to honour.

Consequently, the appeal is dismissed.

(Mahesh Grover)
Judge

April 04, 2016
rts

(Lisa Gill)
Judge