

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

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**CWP-19467-1996 (O&M)
Date of decision:14.09.2017**

United Steel and Alloys Industries Bahadurgarh

....Petitioner

Versus

Presiding officer, Industrial Tribunal-cum
-Labour Court, Rohtak and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. P.K.Mutneja, Advocate for the petitioner.

Mr. Ashok Kumar Sharma, Advocate for
Mr. S.K.Sharma Advocate for respondent No.2.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has challenged the award dated 02.1.1995 (Annexure P8).

2. Respondent No2-workman was appointed as a Fitter on 02.12.1985 with the petitioner. From 06.04.1990 petitioner is stated to have remained absent. Consequently, petitioner has sent letters on 08.04.1990, 14.04.1990 and 21.04.1990 to report back to duty. Since there was no

response registered post was also sent on 24.04.1990. On 24.04.1990 respondent-workman sent a registered post to the petitioner whereas the registered post contains blank paper. Thereafter, the petitioner issued one more letter conveying that registered post received by them contains blank letter and further asking him to report for duty and so also sought explanation from him as to why he remained absent. In this back ground the respondent-workman issued a demand notice on 16.05.1990. Learned counsel for the petitioner submitted that from time to time the petitioner-management proposed to the respondent-workman for reporting to duty however the respondent-workman has refused. On the other hand he persuaded the dispute before the Labour Court. The Labour court proceeded to pass award in favour of the respondent-workman. Hence the present petition.

3. Learned counsel for the petitioner submitted that the labour court has exceeded its jurisdiction while referring to various issues in paras 12 to 15 to the extent that respondent-workman was Joint Secretary of the Union and fixation of pay of Rs.800/- with reference to Government notification dated 18.10.1989 and further correspondence of the respondent-workman's letters and also giving a finding that management had produced the documents which are fictitious documents and were prepared fictitiously. Therefore, labour court award is liable to be set aside. It was further submitted that respondent-workman's conduct has not been taken into consideration by the labour court relating to remaining absent etc.

4. Per contra, learned counsel for the respondent-workman

submitted that from the evidence of MW 1-Subhash it is clear that he has made a statement that there was no complaint against respondent-workman. Same has been taken note of by the Labour court. It was further submitted that respondent-workman has not been given any notice, notice of pay retrenchment compensation etc. Further no inquiry has been held against the respondent-workman. The labour court has assigned the reasons for giving finding that the management had produced the documents which are fictitious and it was prepared for the purpose of this case etc. has taken note. The petitioner have not produced relevant materials like postal receipts and acknowledgment in support of correspondence. Non-production of documents resulted in passing award in favour of respondent.

5. Heard learned counsel for the parties.

6. Petitioner was suggested by this court for payment of compensation in view of the fact that reference is of the year 1991 and present petition is of the year 1996. However, petitioner insisted to decide petition on merit.

7. Perusal of paras 12 to 15 of the Award it is evident that the labour court has erred in not appreciating the relevant documents, letter, post receipt in respect of correspondence letters between the petitioner and the respondent-workman so as to come to the conclusion that documents produced by the management are fake or for the purpose of deciding the reference. In para 15 of the award, Labour court proceeded to record that the petitioner -owner had paid bonus for various period to the extent of 8.33%, 19% and 15%. In the absence of material before the labour court

such a finding or recording statement in the award is extraneous material.

8. In view of these facts and circumstances, labour court award dated 02.01.1995 is set aside. Matter is remanded to the labour court for deciding the reference afresh and it is requested to decide reference within a period of 6 months from today. Parties are directed to appear before the labour court on 25.10.2017.

14.09.2017

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No