

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-6184-1998 (O&M)
Date of Decision:-25.09.2017.

M/s Kamal Furniture House

.....Petitioner

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat and
another

.....Respondents

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

Present: Mr. Samrat Malik, Advocate for the petitioner.

None for respondent No.2.

P.B. BAJANTHRI, J. (Oral)

Matter called twice. None appears for respondent No.2. Since the matter is of the year 1998, based on the available record, matter has been heard.

Petitioner has challenged the validity of the award passed by the Labour Court dated 13.11.1997 and order passed on review application dated 06.03.1998 vide Annexure P-6 and P-9, respectively. Petitioner-firm are into the furniture business. For the purpose of carpentry and polishing of wooden furniture, respondent-workman's services were engaged on piece work basis. Respondent-workman is stated to have worked between 1994 to 1996. Petitioner-firm have not settled the respondent-workman's complete dues. Consequently, respondent-workman filed an application under Section 33-C (2) of the Industrial Disputes Act, 1947 claiming a sum of ₹ 15,925/- along with the interest. Labour Court framed the following

issues:-

“1. Whether the applicant is entitled to recover the amount mentioned in the application?

OPW.

2. Whether this Court has no jurisdiction to try this application? OPM.

3. Whether application is barred by provisions of law? OPM.

4. Whether the management is not an industry and Ranjit Singh is not a workman? OPM.

5. Relief.”

The Labour Court proceeded to pass award in favour of the respondent-workman to the extent that he is entitled to recover a sum of ₹ 15,925/- from the petitioner along with interest @ 12% per annum w.e.f. 20.08.1996 till the date of payment. It was further ordered that the respondent-workman is entitled to a sum of ₹ 500/- as cost. Feeling aggrieved by the order of the Labour Court dated 13.11.1997, petitioner submitted application for review/recalling the order dated 13.11.1997 to the extent that issue Nos.2, 3 and 4 were not admitted by them. The Labour Court proceeded to hold that as if it was admitted by the petitioner-firm. The Labour Court rejected the review application on 6.3.1998. Hence, the present petition.

Learned counsel for the petitioner submitted that respondent-workman was not appointed by the petitioner-firm. His services were engaged for the purpose of piece work on demand. The Labour Court has erred in not considering the issue Nos.2, 3 and 4 and on the other hand, proceeded to pass award as if the petitioner-firm have admitted the issue

Nos.2, 3 and 4. In this regard, review application was also filed. The same

has not been considered. Thus, Labour Court has erred in not considering the contentions of the petitioner-firm. Hence, Labour Court award as well as order passed on review application are liable to be set aside.

Heard learned counsel for the petitioner.

Perusal of the finding of the Labour Court, it is undisputed that there is an oral agreement between the petitioner-firm and the respondent-workman whose services have been engaged for the purpose of polishing wooden furniture in the petitioner's firm. The petitioner-firm have not denied insofar as claim of ₹ 15,925/-. Their only contention is that respondent-workman has never worked. Therefore, question of wages to the respondent-workman do not arise. The undisputed fact is that respondent-workman has discharged the function of a polishman on a piece-work basis. During 1995 to 1996, certain amounts which were due to the respondent-workman have not been cleared by the petitioner-firm. Thus, the Labour Court has passed the award in favour of the respondent-workman. Petitioners have not produced any material to show that there was a settlement between the petitioner and the respondent-workman. In the absence of any material, inference drawn by the Labour Court to the extent that respondent-workman is entitled to ₹ 15,925/- along with interest and so also cost is in order. Therefore, no interference is called for.

Writ petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

September 25, 2017.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.