

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7998 of 2001(O&M)

Date of Decision: 28.02.2017

Vivek Ranjan

... Petitioner

Vs.

Presiding Officer and another

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. G.P. Singh, Advocate
for the petitioner.

None for the respondents.

RAJIV NARAIN RAINA, J. (Oral)

Respondent-Company is not represented and in all probability is facing winding up proceedings or is in arbitration. The Management is ex parte before the Labour Court. The Labour Court has disallowed the application under Section 33-C(2) of the Industrial Disputes Act, 1947 (for short 'the Act') by returning a finding that the petitioner was an Operation Engineer and is not a workman within the meaning of Section 2(s) of the Act. The Labour Court has gone by designation alone. There is no evidence in the deposition of the workman as noticed in the order with regard to the nature of duties and responsibilities for this Court to know whether he performed managerial functions or not or if he was performing supervisory functions mainly of a managerial nature. In absence of the management before the Labour Court a clear picture has not emerged.

So, in order to balance equity, the request of Mr. G.P. Singh to remand the case is accepted. The Labour Court award is set aside. The order

of the Presiding Officer, Labour Court, Hisar dated 26.02.2001 is set aside with a direction to issue notice to the respondent-Company when this order is placed before the Tribunal and would thereafter proceed with the case in accordance with law. No time frame is fixed for the Labour Court in the remand proceedings.

The petitioner to appear before the Labour Court on 28.03.2017. In case the petitioner does not appear on 28.03.2017 or by the next date thereafter the case will be closed by order.

Accordingly, the petition is partially allowed as above.

(RAJIV NARAIN RAINA)
JUDGE

28.02.2017
neeraj

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No