

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

205

**CWP-18166-2003 (O&M)
Date of decision: 11.09.2017**

M/s Broadways Exports

....Petitioner

Versus

The Presiding Officer, Labour Court, Jalandhar and others

.... Respondents

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

Present: Mr. Arun Palli, Advocate for the petitioner.

Mr. Sunny Singla, Advocate for
Mr. R.S. Sharma, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has challenged the validity of the award dated 12.12.2002 (Annexure P-3).

2. Respondent No.2-workman has joined M/s Mittal Patterns in the year 1986. On 21.12.1988, petitioner had taken over M/s Mittal Patterns. Thus, respondent-workman became an employee of petitioner w.e.f. 01.01.1989. From February, 1991 to 14.05.1992 respondent-workman is stated to have not discharged his duties. From 14.05.1992 to 24.04.1993 he has worked. From 25.04.1993 onwards, he remained absent. Consequently, petitioner issued letters to respondent No.2-workman on 27.04.1993, 05.05.1993 and 17.06.1993 asking the respondent No.2-workman to report

back to duty and also sought for explanation of respondent No.2-workman for remaining absent. On 17.06.1993, respondent No.2-workman issued demand notice. Further respondent No.2-workman filed a claim statement stating that his services have been terminated w.e.f. 24.04.1993. The petitioner even against claim statement of the respondent-workman submitted that petitioner is ready to accept the duty report of the respondent No.2-workman. Having regard to the conduct of the respondent No.2-workman, he is not entitled for the relief in respect of reinstatement and consequential benefits as awarded by the Labour court on 12.12.2002. Hence the present petition.

3. Learned counsel for the petitioner vehemently submitted that respondent No.2-workman entered into settlement on 31.01.1991. Thereafter, he rejoined on 14.05.1992 and within one year he started remaining absent from 24.04.1993. Consequently, notices were served upon respondent No.2-workman. Since there was no response, petitioner was under the impression that respondent No.2-workman had abandoned the services. It was further submitted that before the Conciliation officer, petitioner made a statement that respondent No.2-workman would be taken back to duty for which there was no response from the respondent No.2-workman. It was also submitted that respondent No.2-workman was directed to report for duty pursuant to the orders passed in the present petition. Respondent No.2-workman worked for a day and thereafter he has not turned down. Having regard to the conduct of the respondent No.2-workman, he is not entitled for relief granted by the Labour Court,

therefore, Labour court award is liable to be set aside.

4. Per contra, learned counsel for respondent No.2-workman submitted that there was no settlement as contended by the petitioner on 31.01.1991 so as to contend that there is no relationship of master and servant as on 31.01.1991. To that extend no material has been produced. Petitioner had not conducted any inquiry for remaining absent. Letters issued by the petitioner have not been received by the respondent No.2-workman. Therefore, there is no infirmity in the award passed by the Labour Court vide order dated 12.12.2002. Hence petition is liable to be dismissed.

5. Heard learned counsel for the parties.

6. Short question for consideration in the present petition is whether there was any settlement between respondent No.2-workman and petitioner on 31.01.1991 and further whether any inquiry has been held against respondent No.2-workman for remaining absent w.e.f. 24.04.1993. Perusal of the records, it is evident that there is no settlement between the petitioner and respondent No.2-workman on 31.01.1991 to contend that there was a settlement. Learned counsel for the petitioner relied on voucher dated 08.02.1991 relating to debit leave with wages to Ramesh Kumar for the year 1990 as full and final settlement of accounts Rs.279.30/-. Question of final settlement cannot be inferred for the reasons that respondent No.2-workman has worked from 1986 to 1991 for which final settlement cannot be a sum of Rs.279.30/-. It must be settlement with reference to particular leave and wages as stated in the receipt. That apart, it is undisputed that

petitioner had not held any inquiry against respondent No.2-workman for remaining absent. Both the contentions of the petitioner as well as respondent No.2 it is evident that there were lapses on both the them. Therefore, labour court award dated 12.12.2002 is modified to the extent of reinstatement of respondent No.2-workman to that of compensation of Rs.3 Lacs. Petitioner shall pay compensation to the respondent No.2-workman within a period of 3 months from today failing which respondent No.2-workman is entitled to interest @ 6% per annum from today. Accordingly, award of the Labour court dated 12.12.2002 (Annexure P-3) is modified in order to give quietus to the litigation.

7. With this observation, CWP stands disposed of.

11.09.2017

pooja saini

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

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No