

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 16260 of 2009 (O&M)

Date of decision: 15.12.2017

M/s. True Fab Pvt. Ltd.

...Petitioner

V/s.

Ram Kishore (now deceased) through his
LRs and another

...Respondents

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

Present: Mr. A.P. Bhandari, Advocate for the petitioner.

Mr. Ram Bilas Gupta, Advocate for the respondents.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the orders dated 19.05.2003 and 01.01.2008 (Annexures P-3 and P-4). The deceased employee Ram Kishore Rai was engaged as a Chowkidar with the petitioner on 31.08.1999 while extending wages @ 2,500/- p.m. He had discharged the duties of the post of Chowkidar till 01.09.2001. On 15.11.2002, he raised a demand notice. Consequently, reference was proceeded and decided against the management on 19.05.2003. Thereafter ex-parte award dated 01.01.2008 was passed. The award is in favour of the deceased employee to the extent of reinstatement with full back wages. Aggrieved by the award and proceedings, petitioner filed the present petition.

Learned counsel for the petitioner submitted that deceased employee has not completed 240 days. Consequently, he is not entitled for the relief granted by the labour Court. It was further submitted that it is an ex-parte award and without hearing the petitioner, the labour Court proceeded to pass the award. No material has been produced to show that notice to the

petitioner has been served. Therefore, both the orders are liable to be set aside.

Per contra, learned counsel for the respondents submitted that despite giving sufficient opportunity to the petitioner before the labour Court, the same has not been taken note of by the petitioner. Consequently ex-parte award has been passed in favour of the deceased employees. Hence, no interference is called for in the award passed by labour Court. At this stage, it was submitted that during pendency of the present writ petition, Sh. Ram Kishore Rai died on 06.03.2015.

Heard learned counsel for the parties. Perusal of pleadings and record, service of notice is incomplete on the petitioner by the labour Court in the labour Court proceedings. Question of setting aside and remanding the matter to the labour Court do not arise as employee died on 06.03.2015. So also question of implementing award relating to reinstatement with full back wages do not arise. There is a dispute whether the deceased employee has worked for 240 days or not. This cannot be decided due to death of the employee. Therefore, award passed by the labour Court dated 01.01.2008 is modified to the extent that legal heirs of the deceased employee are entitled to sum of Rs.1,50,000/- which shall be paid by the petitioner within a period of three months from today failing which legal representatives of the deceased employee are entitled to interest @ 8% per annum from today.

With theses observations, Civil Writ Petition disposed of.

(P.B.BAJANTHRI)
JUDGE

15.12.2017
Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No