

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

CWP No.15000 of 2015 (O&M)

Date of decision: 21.02.2017

M/s Times Stationers Pvt. Ltd.

.... Petitioner

Vs.

Presiding Officer & anr.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Kunal Dawar, Advocate
for the petitioner.

Mr. Rakesh Dhiman, Advocate
for respondent No.2.

RAJIV NARAIN RAINA, J. (ORAL)

Having heard learned counsel for the parties at some length and looking at the fact that the petitioner-management was proceeded against ex parte on 20.05.2013 by the labour court on failure of appearance and remaining so, till the impugned award was passed 14.07.2014 in favour of the workman and also the fact that it is pleaded that the representative of the management had noted the wrong date, which led to non-appearance, interference may not be out of place for a decision on merits. The fact still remains that the management had got no opportunity to lead evidence while its written statement had been filed and they were prosecuting the case diligently for two years before they were proceeded ex parte. The management should not be made to suffer for the fault of its authorised representative.

In these facts and circumstances, I would in order to secure then ends of justice restore the opportunity of contest so that both the parties have their full say, pro and contra. Hence, the matter deserves to be remanded by setting aside the award to enable fresh decision on merits after returning the petitioner management to participate in the proceedings from the date when the management was ordered to be proceeded ex parte on 20.05.2013.

To achieve this end equitably, the evidence recorded by the workman will be subjected to cross-examination by the management on the examination-in-chief already recorded. On closing the workman's evidence, the management would be permitted to lead evidence and conclude the same within three dates. No further time will be granted since the matter is already much delayed.

Accordingly, this petition is partly allowed. The impugned ex parte award is set aside and the matter is remanded to the Labour Court-II, Gurgaon for taking up the matter again on remand to proceed as per above terms.

This order will however, be subject to payment of costs assessed as ₹ 1.5 lakhs to the respondent-workman to compensate him for the reopening of the proceeding. The management has agreed to pay such amount in case the matter is remanded for fresh decision. The prayer is accepted.

Parties are directed to appear before the Labour Court – II, Gurgaon on 15.03.2017. On the first date before the labour court, the

aforesaid amount will be paid by way of draft in the name of workman and handed over in the presence of Labour Court or on any other date fixed by the Court for discharge of liability.

It will be the endeavour of the labour court to conclude the proceedings within six to eight months. Neither of the parties will be given any unnecessary adjournment and the cause be taken up for granting short adjournments till conclusion and passing of the contested award.

(RAJIV NARAIN RAINA)
JUDGE

21.02.2017
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1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No