

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 20.03.2017

CWP No.1499 of 2017

M/s Gupta Metals Sheets Pvt. Ltd.

...Petitioner

Vs.

Ranbir Singh & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sanjay Verma, Advocate, for the petitioner.

RAJIV NARAIN RAINA, J. (ORAL)

Mr. Verma relies on the contents of Para.6 of the writ petition to assert that the Management employed respondent No.1 – workman as a Driver through the Employment Office, Rewari on 01.06.2012.

On a query from the Court, whether this defence was taken in the written statement of defence filed before the Labour Court, he is unable to point out from there (Annex P-2) that any such defence was taken. Therefore, no amount of evidence can be led on a fact not pleaded. A new defence plea is not permissible in writ proceedings for the first time, when not taken before the Court below. The plea is, thus, rejected.

The dispute regarding the spelling of the name of the respondent i.e. 'Rambir' or 'Ranbir' has been elaborately dealt with by the Labour Court and resolved in favour of the workman. The jurisdictional facts entitling the workman to relief stand eminently satisfied in this case and when those are read with Section 25-F of the Industrial Disputes Act, 1947, then the petitioning management cannot be heard to wriggle out of the situation created by active avoidance of the mandatory procedural safeguards in Section 25-F when not offered at the time of termination of

service. The Presiding Officer, Industrial Tribunal -cum- Labour Court-I, Gurgaon in its Award dated 23.10.2015 has correctly relied on the Supreme Court judgment in Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) & others, (2013) 10 SCC 324 and declared the termination illegal and has, therefore, held the workman to be entitled to reinstatement in service with 40% back-wages w.e.f. 15.12.2012 onwards. The financial relief has been properly and suitably moulded to do justice to both the sides and there is no room for interference against the impugned Award on the writ side of this Court.

Besides, there is inordinate delay in challenging the Award pronounced in October, 2015 i.e. on 23.10.2015 in the year 2017 from where it can reasonably be inferred that the management has woken up only under imminent threat of proceedings taken in execution of the Award.

Accordingly, the petition is dismissed.

20.03.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>