

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 20406 of 2016

Date of Decision: 11.01.2017

M/s Vibewell Techniks (Pvt.) Ltd.

...Petitioner

Vs.

Amit & another

...Respondents

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

Present:- Mr. Sachin Mittal, Advocate
for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

Mr. Mittal has read out the relevant part of the cross-examination of the workman in Hindi and the translation placed on record matches the meaning. There is an admission by the workman that he was a habitual absentee. But even an absentee workman has a right to be dealt with in accordance with law and the employer obliged to deal with the employee paying due regard to the protections afforded by the mandatory provisions of the Industrial Disputes Act, 1947.

I find no error of jurisdiction or reasoning in the impugned award dated 11.04.2016 passed by the Presiding Officer, Labour Court, Gurgaon, reinstating the workman with 40% back-wages w.e.f 19.01.2013 onwards. The Labour Court has come to the conclusion that there has been a flagrant violation of Section 25-F of the Act and in its discretion has on setting aside the termination order as illegal and void stepped further and moulded the relief by awarding only 40% of the back-wages. In the cross-examination of the workman it is revealed had admitted to be a habitual

absentee and if this was so, then the labour court thought that was not a charge against the workman laid by the management. In case there was such a charge it would have to be followed by an enquiry to establish guilt before taking action against the delinquent workman. This is the line of reasoning adopted by the Labour Court to grant partial relief, of which I find nothing palpably wrong or perverse. It is not for this Court in proceedings under Article 226 of the Constitution of India to substitute discretion properly exercised by the Labour Court. So long as there is no fundamental flaw in the award, it is not open to the criticism. This court does not sit in appeal over awards of labour courts to substitute its findings of fact based on appreciation of evidence adduced on record by the parties. The labour court is the first and last court of fact.

Dismissed.

(RAJIV NARAIN RAINA)
JUDGE

11.01.2017

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Whether speaking/reasoned *Yes*

Whether reportable *No*