

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 24022 of 2015 (O&M)

Date of decision: 16.12.2017

M/s. Maadhev Automotive Facteners**...Petitioner****V/s.****Presiding Officer, Industrial Tribunal
cum Labour Court-II, Gurgaon and another****...Respondents****CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI**Present: Ms. Aashna Gill, Advocate for
Mr. Aman Pal, Advocate for the petitioner.

Mr. A.D.S. Bal, Advocate for respondent No. 2.

**********P.B. BAJANTHRI, J. (Oral)**

In the instant writ petition, petitioner has challenged award passed by the labour Court dated 01.07.2015 (Annexure P-4). The respondent-workman is stated to have been appointed as Operator on 17.06.2003. Respondent-workman is stated to have abandoned services w.e.f. 12.05.2010. Learned counsel for the petitioner submitted that when he abandoned the services, question of retrenchment or termination do not arise. It was further submitted that respondent-workman is already working as it is evident from the pleadings made by the respondent-workman in CM No. 13778 of 2016 (para 3). Therefore, award passed by the labour Court is liable to be set aside.

Per contra, learned counsel for the respondent-workman submitted that his services were retrenched. Had he abandoned the services, the management-petitioner would have issued notice asking him to report back to duty. No such material had been placed. Further, before the conciliation proceedings also intention of the petitioner was not clear in-so-far as taking him back to duty in writing. That apart, they had occasion to consider before

the labour Court to extend that workman would be taken back to duty.

In view of these facts and circumstances, petitioner has not made out a case so as to interfere with the award passed by the labour Court.

Heard learned counsel for the parties. Perusal of the record, it is evident that there is no *iota* of evidence that respondent-workman had abandoned the services on 12.05.2010 to the extent that no action has been taken by the petitioner's management in asking the respondent-workman to report back to duty. Further they had opportunity in the conciliation proceedings as well as before the labour Court if the real intention of the petitioner is to take back the respondent-workman to duty.

In view of the admission made by the respondent-workman in CM 13778 of 2016 to the extent that he has been employed, therefore implementation of award dated 01.07.2015 in-so-far as reinstatement with continuity of service do not arise. Of course if respondent-workman is out of employment he has to look for a job to lead life, that does not waive off his right in respect of dispute raised by him before the industrial Tribunal.

In view of these facts and circumstances, it is impracticable to implement the award at this juncture due to respondent employment elsewhere. Accordingly, award dated 01.07.2015 is modified to the extent that respondent-workman is entitled to compensation of Rs.3,00,000/- and the same shall be paid to him within a period of three months from today failing which respondent-workman is entitled to interest @ 8% per annum.

With these observations, Civil Writ Petition is disposed of.

(P.B.BAJANTHRI)
JUDGE

16.12.2017

Divyanshi

Whether speaking/reasoned
Whether reportable

:
:

Yes/No
Yes/No