

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 23466 of 2016(O&M)
Date of Decision: 11.01.2017

Narinder Singh

...Petitioner

Vs.

Presiding Officer & another

...Respondents

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

Present: Mr. M.S. Bedi, Advocate
for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

CM No.16333 of 2016

CM is allowed. Alleged resolution dated 13.03.2009 is taken on record.

Main Case

In the impugned order passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Amritsar, under Section 33-C(2) of the Industrial Disputes Act 1947, the petitioner workman has been non-suited for not producing the resolution on which the case was built for grant of annual increments w.e.f 01.01.2011 till retirement on superannuation on 31.08.2014.

In the absence of this document, the Labour Court held that no finding could be returned on whether the applicant is entitled to recover the increments or not. In these circumstances, there has been no examination by the labour court of the document now produced on file. But since it is

available to sight, the petitioner deserves to be given liberty to approach the labour Court again to reargue his case for a fresh decision on the new material produced. In case the petitioner seeks review by an application presented in the labour court it will restore the Application No. A-04 of 2015 on his Board and proceed to decide the case afresh by keeping in view the document relied on and consider the effect of the resolution Annex P.3 which has been produced as an attachment with CM No.16333 of 2016. The Resolution is from Page 9 of the Proceeding Book and its photocopy is also part of the application.

Accordingly, the case is remanded. The petitioner would appear before the learned Labour Court on 01.02.2017 and produce a copy of the present petition together with the CM which will be taken on record by the Labour Court before it causes appearance of the opposite party and on their appearance would proceed to decide the case afresh on merits in accordance with law. In doing the exercise again the labour court will not be influenced by his own order impugned in this petition nor by anything said in this order which is meant only to serve the ends of justice so that a cause may not be lost without a verdict of the court on the weight of the resolution and what effect it might have on the merits of the case.

The value of the resolution and its impact on the relief sought in the claim application for arrears of increments is left solely to the labour court to adjudge independently after hearing both sides. The labour court will be free to accept further pleadings but no documentary evidence beyond the moot resolution will be accepted on record due to the nature of the dispute raised before this Court centering on the new found but pre-

existing document.

For this, the respondents are not required to be heard on notice as no prejudice will be caused to them as nothing has be said on the merits which might prejudice either of the parties. The petitioner has a right to verdict in accordance with law on the material available and therefore, this order is ex parte management. The labour court will endeavour to decide the case and pass a fresh order within six months.

(RAJIV NARAIN RAINA)
JUDGE

11.01.2017
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>