

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

CWP No.9852 of 2016 (O&M)
Date of decision: 04.05.2017

Dalip Kumar

.... Petitioner

VS

The Presiding Officer, Industrial Tribunal
-cum-Labour Court, Circle I, Faridabad and anr.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. B.B.Sharma, Advocate
for the petitioners.

Mr. Vikas Chaudhary, Advocate
for respondent No.2.

RAJIV NARAIN RAINA, J. (ORAL)

The Labour Court-I, Faridabad passed the impugned order dated 16.07.2015 passed by the labour court in an application under Section 33 C (2) of the industrial Disputes Act, 1947, which is impugned by the petitioning workman in this writ petition brought under Article 226/227 of the Constitution of India. The sum total of the impugned order reads as under:

“WW-1 Sh. Dali Kumar is not present despite last opportunity. A date is requested which highly is opposed. Applicant-workman has already availed many opportunities but he not been produced for cross examination despite last opportunity. So there is no ground to adjourn the case any further for this purpose. Evidence of the workman is closed by order of the Court. Respondent AR also does not want to lead any evidence. The applicant-workman has failed to show that he is entitled to get any amount

computed. So, the application is dismissed. File to consigned to record room after due compliance.”

This order ex facie deserves to be set aside on the ground that it is highly erroneous approach and contains no reason whatsoever as to what was weighing in the mind of the labour court that applicant-workman had failed to show that he is entitled to get any amount computed. Recording reasons is a facet of reasonableness and the necessary tool in discharge of judicial business. Not to speak of administrative orders, which also require reasons to be stated, judicial orders require more vigour as explained by the constitution bench of the Supreme Court in **S. N. Mukherjee vs. Union of India**, AIR 1990 SC 1984. If there is no reason assigned or one which is, is perfunctory and of insufficient in quality to understand the process of reasoning, no order, whether judicial or administrative, can survive judicial review.

I am surprised that after having passed this order, the application of the workman for restoration of the application for a decision on merits was disallowed when the position could have been rectified to do substantial justice. Many peripheral and irrelevant issues entered the decision on the restoration application by the labour court in a rather copious order, when the same amount of time and effort could have been spent in deciding the application on merits. Instead, justice was dispensed with. The only possible cure of the patent defects noticeably apparent on the face of the record is to remit the case back to the labour court for its reconsideration on merits of the dispute.

Consequently, the writ petition is allowed and both the orders are set aside and the case is remanded to the Labour Court, Circle I,

Faridabad. The file is restored on the Board of Labour Court to proceed with it in accordance with law by picking up the threads from 16.07.2015.

Parties are directed to appear before the Labour Court, Circle I, Faridabad on 23.05.2017.

04.05.2017

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(RAJIV NARAIN RAINA)

JUDGE

1. Whether speaking/non-speaking?

Yes

2. Whether reportable/non-reportable?

No