

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

LPA No.2351 of 2016 (O&M)

Date of Decision : 10.05.2017

Shivalik Model Senior Secondary School

....Appellant

Versus

The Presiding Officer, Industrial Tribunal,
Patiala and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

....

Present : Mr.Gautam Pathania, Advocate
for the appellant.

.....

MAHESH GROVER, J. (Oral)

CM No.4885-LPA of 2016

For the reasons mentioned in the application, delay of 40
days in re-filing the appeal is condoned.

C.M.stands allowed.

CM No.4886-LPA of 2016

Allowed as prayed for.

LPA No.2351 of 2016

The appellant is in appeal against the judgment of the
learned Single Judge dated 01.08.2016.

In a reference claimed by the workman the appellant has
raised a plea that there was no relationship of employer and

employee between them.

The learned Single Judge noticed that in earlier proceedings under the Minimum Wages Act this question was determined and the appellant never questioned that finding under the Minimum Wages Act. Therefore, the plea raised before the learned Single Judge about the relationship of the appellant with the workman was negated outrightly.

Learned counsel for the appellant contends that even if this plea is accepted, the respondent No.2 would not come within the definition of 'workman' as contemplated under the Industrial Disputes Act, 1947 and simply because he was held to be an employee under the Minimum Wages Act would make no difference to this issue for the Industrial Disputes Act and the respondent No.2 will have to bring his case within the distinct definition of this special Act.

After hearing the learned counsel for the appellant in this regard, we find that no such plea was raised before the learned Single Judge. The only plea raised was that there was no relationship of employer and employee between the appellant and respondent No.2, which on the face of it can be termed to be a dishonest plea. The respondent No.2 was clearly held to be an employee of the appellant. In this situation the appellant could hardly have raised a sustainable plea of there being no relationship between the appellant and respondent No.2

of an employer and employee.

At this stage, learned counsel for the appellant prays for permission to withdraw the present appeal and states that the entire dues of the workman would be cleared.

Let the needful be done by the appellant within a period of six weeks.

The appeal is dismissed as withdrawn.

(MAHESH GROVER)
JUDGE

10.05.2017
dss

(SHEKHER DHAWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No