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

CR-1268-2017

Date of decision : 25.01.2018

Vijay Nand

... Petitioner(s)

Versus

The Commissioner, Municipal Corporation, Patiala and
others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Sukhmani Tiwana, Advocate
for the petitioner.

Mr. Anil Sood, Advocate
for respondent No.1.

Ms. Akanksha, AAG, Punjab.

AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the orders dated 06.07.2015 (Annexure P-2) and 05.07.2016 (Annexure P-3) passed by the Industrial Tribunal, Patiala, whereby two applications seeking examination of two witnesses, namely, Jaya Nand and Parmanad being brothers of the petitioner and examination of an Expert, who verified the signatures on the muster roll, by way of additional evidence, have been dismissed.

Ms. Sukhmani Tiwana, learned counsel appearing on behalf of the petitioner submits that a reference under Section 10 of the Industrial Dispute Act viz-a-viz the termination of the services of the petitioner, is pending before the Court, wherein both Management and petitioner-workman have also closed their evidence. The case set up by the petitioner-

workman is that he had worked with the respondent(s)-Management for a period of 21.01.2006 to 31.03.2007, whereas, his services were terminated on 01.04.2007. The Management brought on record the muster-roll, which showed that the wages for the period of 05.10.2006 to 22.11.2006 received by the workman in the name of Jaya Nand and for the period of 05.12.2006 to 31.03.2007 in the name of Parmanand. In order to verify the signatures of Jaya Nand and Parmanand as well as of the petitioner-Vijay Nand, on the muster roll, examination of a handwriting expert is necessary. The aforementioned applications were contested and the same have been dismissed on the ground that it has no jurisdiction to allow the additional evidence behind a reference referred by the Labour Court.

She further submits that the evidence would be essential and necessary for the adjudication of the *lis* as the Management has played a fraud upon the petitioner-workman for the purpose of drawing the wages by appending the signatures under different names so that the petitioner-workman may not fall within the zone of 240 days.

Learned counsel appearing on behalf of respondent No.1 submits that the applications are not maintainable as the orders, under challenge, are perfectly legal and justified. As regards the other point, he submits that two witnesses, namely, Jaya Nand and Parmanand would not be essential and necessary to examine for identifying their alleged signatures viz-a-viz of Vijay Nand.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is a force and merit in the submissions of Ms. Tiwana, for, the rules are hand made of justice and rigors of the same cannot be pressed into service against a workman, who

had already suffered a loss with regard to the illegal termination, which was allegedly without compliance of the provisions of Section 25-F of the Industrial Dispute Act. Since the muster roll apparently appears to be having the signatures of Jaya Nand and Parmanand, who are none-else, but the brothers of the petitioner-workman, it would be in the fitness of things to allow the petitioner to examine Jaya Nand & Parmanand, for the purpose of comparison of signatures through Handwriting Expert as to whether the signatures are of their or of Vijay Nand to decide the *lis*.

For the foregoing reasons, the impugned orders, under challenge, are not sustainable in the eyes of law and the same are set aside. The applications seeking additional evidence are allowed by affording two effective opportunities to the petitioner-workman, Vijay Nand to conclude the evidence by examining Jaya Nand & Parmanand and take the assistance of the Handwriting Expert.

Resultantly, the present revision petition stands allowed.

25.01.2018 Yogesh Sharma	(AMIT RAWAL) JUDGE
	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No