

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

-.-

CR 4789 of 2018 (O&M)

Date of decision: 30.07.2018

M/s Jagran Prakashan Limited

..... Petitioner

Versus

Sandeep Kumar and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Arihant Jain, Advocate
for the petitioner

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Rekha Mittal, J. (Oral)

The present petition directs challenge against order dated 31.05.2018 (Annexure P5) passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar whereby defence of the petitioner has been struck off for want of filing of written statement/reply.

Counsel for the petitioner would urge that initially the Government of Haryana, department of Labour made reference dated 28.11.2017 with an endorsement dated 11.01.2018 (Annexure P1). It is further submitted that for the first time, the Tribunal called upon the petitioner to file reply on 22.03.2018. Subsequent thereto, reference order was changed and reference was made in exercise of the powers under clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (in short, the Act of 1947) viz-a-viz the earlier reference under Section 17 of the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (in short the Act of 1955) signed by the Principal Secretary to Government, Haryana and forwarded by the Deputy Labour Commissioner, Labour Department on 26.04.2018 with

endorsement number and date of the original reference. Further submitted that no doubt, on 24.05.2018, an authorized representative of the Management made a statement, reproduced in the impugned order, asking for one week's time to file the written statement, failing which defence of the Management may be struck off but as non-filing of reply would cause a serious prejudice to the petitioner to defend the reference, the petitioner may be allowed one opportunity to file reply, may be, subject to payment of reasonable costs.

I have heard counsel for the petitioner and perused the paper book particularly the order impugned.

Perusal of annexures (P1) and (P4) would substantiate plea of the petitioner that initially reference was made under the Act of 1955 but later it was made under the Act of 1947. The Management was given time for the first time on 09.03.2018 for filing reply and the impugned order striking off defence was made on 31.05.2018. Keeping in view the interest of substantial justice coupled with that no one should be condemned unheard, unless there is serious lapse on the part of person defending the proceedings, the impugned order is set aside and the petitioner is allowed one opportunity to file reply within a period of fifteen days from today, subject to payment of costs of Rs.20,000.00 by way of demand draft in the name of Sandeep Kumar and others, applicants/petitioners before the Tribunal.

Disposed of accordingly.

(Rekha Mittal)
Judge

30.07.2018

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