

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

CWP-11638-2017 (O&M)

Date of Decision: 30.01.2018

Automax Karamchari Union

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Ms. Abha Rathore, Advocate for the petitioner.

Mr. Rajiv Atma Ram, Sr. Advocate with
Mr. Abhilaksh Grover, Advocate for respondent No.2.

Mr. Pawan Singh, Advocate for applicant
in C.M. Nos.16712 and 11638 of 2017.

P.B. BAJANTHRI J. (Oral)

C.M. No.14217 of 2017

Heard the present application.

Learned counsel for the petitioner submitted that respondent-company have more than 300 workers, therefore, before closure of the company, they were required to obtain permission of the respective department or Government in view of Section 25 (o) of the Industrial Disputes Act, 1947 (for short "ID Act") read with Section 25(k) of the Act. It was further pointed out that as per Annexure P-3 maximum 500 workers are shown and in the very same document 285 Regular employees and 140 contract employees have been shown. Thus, before closure of the company, respondent-company have to obtain permission and without permission, they have violated the provisions of the ID Act. Therefore, petitioner is entitled to make necessary amendment to the original petition having regard to the order dated 24.6.2017 by which respondent-company has closed the factory and terminated the employees.

Per contra, learned counsel for respondent No.2 while resisting the claim for amendment of petition insofar as challenge to order dated 24.6.2017 submitted that petitioner in original petition even though it is stated that there were 285 workers and further there is no specific averments to what extent number of workers were working with the respondent. According to the petitioner's version, it varies from 285 to 293 workers. In other words, petitioner has no proper instructions in respect of number of workers working in the respondent-company. In order to over-come the number of workers, petitioner has pleaded that respondent-company is having more than 315 workers so as to cover up the question of law that before closure of the company they have to obtain necessary permission from the respective department or Government in view of the provisions of the ID Act. Thus, petitioner has not made out a case to amend the petition and in challenging order dated 24.6.2017

Heard learned counsel for the parties.

Having regard to the pleading of the petitioner in respect of stating how many workers are working with the respondent which is not specific; it varies from 285 to 315 workers; further in the amended petition in Annexure P-3, it was pointed out that more than 500 workers were working; it was also pointed out from Annexure P-3 that there are 285 regular workers and 140 on contract basis, it is evident that petitioner has not pleaded specifically how many workers are working with the respondent-company so as to challenge order dated 24.06.2017. Thus, there is a dispute relating to number of workers. Whereas the respondent has taken the contention that there were 293 workers working with the respondent-company and since it is not having 300 workers, therefore,

question of obtaining permission from the respective department or Government do not arise in view of the provisions of the ID Act.

In view of these facts and circumstances, petitioner has not made out a case for amendment of the petition.

Accordingly, application stands dismissed.

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In view of the order passed in the application for amendment, the main writ petition as well as application for impleadment and other applications do not survive for consideration.

Accordingly, main writ petition and all other applications stand dismissed.

30.01.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**