

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

Date of decision: 17.10.2018

CWP No.5272 of 2014

Devi Dyal Bhatt

...Petitioner

Vs.

Presiding Officer, Industrial Tribunal, Ludhiana & another

...Respondents

CWP No.5275 of 2014

Gurprem Singh

...Petitioner

Vs.

Presiding Officer, Industrial Tribunal, Ludhiana & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ranjivan Singh, Advocate, for the petitioner(s).

Mr. Mrigank Sharma, Advocate, for respondent No.2.

RAJIV NARAIN RAINA, J. (ORAL)

This order will dispose of the aforementioned two writ petitions, as the cause they espouse and the factual and legal issue involved is common and identical and, therefore, they can be conveniently decided by a single order. However, for a facility of reference, the facts are picked up from CWP No.5272 of 2014.

On going through the papers and upon hearing counsel, I have absolutely no doubt in my mind that the order as well as Award dated

04.12.2013 passed by the Presiding Officer, Industrial Tribunal, Ludhiana has to be set aside in the interest of justice and an opportunity given to the petitioner to appear before the Tribunal for recording his cross-examination by the Management. The reason which impels me to set aside the award is that the order which preceded it had closed the evidence of the workman as he failed to attend the proceedings on the day of listing i.e. 04.12.2013. There was one prior occasion as well, which included court warning of last opportunity. The reference pertains to the year 2003. For some strange reason, it was the Management which led its evidence before the workman and concluded it on 25.02.2009 spending 6 years in the process of litigation.

Dr. Puneet Kaur Sekhon, the learned Law Officer, submits that the Management actually took only one year to conclude its evidence.

As to what transpired between 2003 to 2008 is not part of record and could be seen only from the LCR. However, that is not so material since the Management took the initiative to start evidence in the case in August 2008 reversing the normal procedure of a workman/plaintiff leading his evidence first. Be that as it may, the search presently is for substantial justice and to avoid a failure of it since the examination-in-chief of the workman will not be treated as evidence in the eyes of law when not tested by cross-examination. If the procedure was departed from, the Tribunal allowed it to happen, but this is of no grave concern.

Presently, what the Court is faced with is the Award dated 04.12.2013, where the evidence of the workman has not been treated as legal evidence, his examination-in-chief not having been tested by cross-examination. The Tribunal could easily have granted one date even on pain of costs in order to do substantial justice. It is wiser that the Tribunals

decide cases on merits after considering the evidence tendered in support of the respective parties.

Accordingly, both the petitions are allowed. The impugned order closing the evidence of the workman and the award/s that followed are set aside.

The cases are remanded to the Industrial Tribunal for a fresh decision after granting one proper opportunity to the workman to stand in the witness box to face cross-examination by the management.

Parties to appear before the Industrial Tribunal on 15.11.2018.

Since these are old cases, it will be appreciated if the Industrial Tribunal makes an endeavour to decide the references as expeditiously as is practicable.

17.10.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>