

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

CWP-8096-2013

Date of Decision: 23.02.2018

M/s GKN Driveline (India) Ltd.

... Petitioner

Vs.

Industrial Tribunal and others

... Respondents

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

Present : Mr. Pankaj Gupta, Advocate
for the petitioner.

Mr. Rohit Arya, A.A.G. Haryana.

Ms. Abha Rathore, Advocate
for respondent No.3.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has challenged the orders dated 23.8.2002 (Annexure P-1), 16.11.2004 (Annexure P-5) and 11.02.2013 (Annexure P-9) respectively. He has further sought for modification of draft in particularly para-20 relating to transfer where the word India in the draft has been modified to that of 'State'.

2. Learned counsel for the petitioner submitted that Certifying Officer and Joint Labour Commissioner, State of Haryana has modified the word 'India' to that of 'State' in the transfer clause in the certified standing order at para 20 is without hearing the petitioner. Perusal of the draft, it is evident that intention of the petitioner is that it should be India and the same has been changed to State by the Certifying Officer. If any alteration is required to be made by Certifying Officer under Section 5 of the Industrial Employment (Standing Orders) Act, 1946 (for short "Act 1946"), he has to pass an order. Passing of such order is mandatory since the word used is "shall make an order under writing accordingly". Perusal of the record, it is

evident that no order has been passed while modifying the word 'India' to that of 'State' in the certified standing order which was certified by the Certifying Officer. Therefore, orders dated 23.8.2002 (Annexure P-1), 16.11.2004 (Annexure P-5) and 11.02.2013 (Annexure P-9) are set aside and portion of Annexure P-2 in para 20 the word 'State' is set aside and word 'India' is restored.

3. In view of these development, Certifying Officer is hereby directed to modify certified standing orders of M/s GKN Driveline (India) Ltd. As if Annexure P-2 is proposal. If Certifying Officer intends to modify any of the clause, he is directed to hear parties in the matter before passing any order relating to alteration of clause in the draft standing orders of petitioner vide Annexure P-2 and so also in terms of Section 5 of Act, 1946. The Certifying Officer is hereby directed to complete the aforesaid process within a period of four months from today.

4. Petition stands allowed accordingly.

23.02.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**