

...

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP-477-2018
Date of Decision : October 17, 2018

Jal Ram Petitioner.

Versus

The Presiding Officer Labour Court-I, Faridabad and another
.... Respondents.

2. CWP No.1910-2018

Avdesh GoswamiPetitioner.

Versus

The Presiding Officer Labour Court-I, Faridabad and another
...Respondents.

3. CWP No.1911-2018

Om ParkashPetitioner.

Versus

The Presiding Officer Labour Court-I, Faridabad and another
...Respondents.

4. CWP No.1912-2018

Jag PalPetitioner.

Versus

The Presiding Officer Labour Court-I, Faridabad and another
...Respondents.

5. CWP No.1913-2018

Abhay NathPetitioner.

...

Versus

The Presiding Officer Labour Court-I, Faridabad and another

...Respondents.

6. CWP No.1914-2018

Ravinder Kumar

....Petitioner.

Versus

The Presiding Officer Labour Court-I, Faridabad and another

...Respondents.

7. CWP No.1915-2018

D.L. Karan

....Petitioner.

Versus

The Presiding Officer Labour Court-I, Faridabad and another

...Respondents.

8. CWP No.1916-2018

Jaikrit Lal

....Petitioner.

Versus

The Presiding Officer Labour Court-I, Faridabad and another

...Respondents.

9. CWP No.1917-2018

Surinder Singh

....Petitioner.

Versus

The Presiding Officer Labour Court-I, Faridabad and another

...Respondents.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

...

Argued by: Mrs. Abha Rathore, Advocate
for the petitioner.

Mr. P.S. Jammu, Advocate
for respondent No.2.

SHEKHER DHAWAN, J.

Challenge in all these above titled nine writ petitions is to orders passed by learned Labour Court-I, Faridabad, whereby applications filed by the petitioners-workmen seeking amendment in the Claim Applications, have been dismissed. As the issue involved in all these writ petitions is the same, therefore, the same are being taken up together with the consent of learned counsel for the parties and being disposed of by this common judgment.

2. For facility of reference, facts are being taken from CWP-477-2018 titled **Jal Ram Vs. The Presiding Officer, Labour Court-I, Faridabad and another.**

3. Present writ petition under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari to quash order dated 14.11.2017 passed by respondent No.1 whereby application filed by the petitioner seeking amendment in Claim application has been rejected.

4. As per petitioner (Jal Ram), he was employed by respondent No.2 and the Workers Union gave a charter of demands to the Management. The Management ordered for lockout of the factory on 5.9.1991 which continued till 7.6.1992. The Management sought permission to retrench the workman which was declined and the permission was also sought to close the factory, which was also not granted by the Haryana Government. Petitioner and 18 others raised

...

industrial dispute and the same was decided vide award dated 21.1.2001 granting small amount of monetary compensation on account of loss of confidence. The petitioners then approached this Court by way of filing Civil Writ Petition No. 8724 of 2004 challenging the said award, which was decided vide judgment dated 14.10.2009. LPA filed by the Management was dismissed on 27.11.1993 by this Court. SLP was filed by the Management before the Apex Court and the same was also decided on 28.10.2014 in view of the settlement arrived at between the parties to the effect that the Management would pay to the workman 50% back wages from 3.12.1991 to 14.10.2009 and from 14.10.2009 till the date of superannuation, full wages were to be paid. The Management was also directed to make payment of retiral benefits in accordance with law. Despite orders passed by Hon`ble Apex Court, Management made short payment of Rs.5,82,786/- towards back wages and Rs.1,39,453/- as gratuity. The petitioner accepted the cheques under protest. The petitioner filed claim application (Annexure P/2) dated 29.4.2015 claiming remaining wages and retiral benefits as per settlement before the Hon`ble Apex Court, under Section 33C(2) of the Act. On 5.8.2015, the Management filed an application seeking better particulars from the petitioner.

5. On 20.11.2015, Presiding Officer of learned Labour Court had given directions to file detailed calculation of claim giving break-up of salary, Dearness Allowance, House Rent Allowance and other allowances. The petitioner filed reply on 28.9.2015 to the said application. Respondent No.2 filed their reply on 17.5.2016 to the main claim application. Later on, petitioner found that they had omitted many allowances in the Claim

...

application. Accordingly, an application, Annexure P/6 was filed for amending the claim statement. Respondent No.2 filed reply on 5.7.2016 contesting the amendments on the ground that the same are without any basis and the petitioner wanted to make out new case and the learned Presiding Officer of learned Labour Court dismissed the application for amendment vide order dated 14.11.2017 (Annexure P/9), which has been challenged by the petitioner in the present writ petition.

6. Learned counsel representing the petitioner contended that law on the point is settled that amendments are allowed liberally while deciding the claim before the trial Judges so as to give finality to the litigation but learned Labour Court has completely ignored this fact. Learned counsel for the petitioner has placed reliance upon the judgments of Hon`ble Supreme Court in **Rajesh Kumar Aggarwal and Ors Vs. K.K.Modi and Ors.**, AIR 2006 SC 1647; and **Gammon India Limited Vs. Niranjan Dass**, AIR 1984 SC 500 and judgment from Hon`ble Madras High Court in **Palaniammal Vs. V.K.Ramanathan and 4 others**, 2002 (1) CTC 618.

7. While arguing on this point, learned counsel for respondent-Management took the plea that learned Labour Court has rightly considered the facts of the present case and rightly rejected the claim for amendment on the ground that the petitioner just wanted to make out a new case, which is not permissible.

8. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that most of the facts are not disputed that in the earlier round of

...

litigation, the matter had gone upto Hon`ble Apex Court and a settlement was arrived at between the parties and payment was made to the workmen. As per the settlement between the parties the Management was to pay to the workman 50% back wages from 3.12.1991 to 14.10.2009 and from 14.10.2009 till the date of superannuation, full wages were to be paid, but the petitioner has claimed wages by way of amendment even after the date of superannuation i.e., 1.9.2016. Learned Labour Court has rightly rejected the said claim on the ground that the amendment sought is not even in consonance with the orders passed by Hon`ble Supreme Court. This Court has also gone through the judgments of Hon`ble Apex Court in **Rajesh Kumar Aggarwal and Gammon India Limited cases'** (surpa) and is of the view that there is no dispute on the legal position that the amendment should be allowed at the trial stage so as to determine the real question in controversy, but at the same time, the parties cannot be allowed to make out entirely new case and to that extent, to go contrary to the case as set-up in the original pleadings and on that ground, learned Labour Court has rightly rejected the application for amendment of the claim application. There are no grounds for interference by this Court by way of present writ petition.

9. Resultantly, there is no merit in the present writ petitions and the same stand dismissed.

(SHEKHER DHAWAN)
JUDGE

October 17, 2018.

som

Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes