

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

CWP-5314-2018

Date of Decision:06.03.2018

Cosco India Limited

... Petitioner

Vs.

The Presiding Officer and another

... Respondents

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

Present : Mr. Ajay Bhardwaj, Advocate
for the petitioner.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has challenged the award passed by the Labour Court dated 06.12.2017 (Annexure P-9).

2. Learned counsel for the petitioner submitted that there is error committed by the Labour Court in not interpreting the Clause No.3 of the settlement. Labour Court has given the following finding:

“14. Since the management did not comply with said directions, therefore, the department launched prosecution proceedings against them. To avoid the same, the management had filed a suit for mandatory injunction bearing No.796 of 2010, titled as “Cosco India Ltd. Versus Haryana State & others” in Civil Court at Gurugram which was dismissed by learned Civil Judge (Jr. Div.), Gurugram vide judgment dated 29.10.2014 Ex.P-7. Against the said judgment, the management had filed civil appeal bearing No.150/2014 with CIS No.CA/2234/2014 which was dismissed by learned Addl. District Judge, Gurugram vide judgment dated 10.04.2015 Ex.P-8.

15. Against judgment Ex.P-8, the management filed Civil Writ Petition No.8615 of 2015 titled as 'Cosco India Ltd. Versus State of Haryana and others' before the Hon'ble Punjab and Haryana High Court at Chandigarh and vide order dated

4.5.2015 Ex.P-9, the Government of Haryana was directed to send the reference to the Labour Court so that the alleged controversy regarding interpretation of clause No.3 of settlement comes to logical conclusion. Against the said judgment, the worker union filed LPA No.1066 of 2015, which was disposed of by the Hon'ble High Court vide order dated 6.12.2016 Ex.P-10 with a direction that the respondents shall comply with condition No.2 of the agreement and clear all the arrears within a period of six weeks from the date of receipt of certified copy of the order and the remaining dispute qua clause No.3 which is a subject matter of reference shall continue to be adjudicated before the Labour Court. In pursuance of that direction, present reference has been made before this Court for interpretation and adjudication.

16. Once the parties arrive at a settlement, they cannot back out from the same. In the present case, it is already observed that as per condition No.3 of the settlement under Section 12 (3) of the Act, it was agreed that benefit of increase of salary and dearness allowance by Haryana Government shall be given to all the workers. The said settlement took place between the parties before the Deputy Labour Commissioner, Gurugram and that authority vide letter dated 5.12.2008 Ex.PW-3/3 explained that the benefit of increase of wages i.e. Rs.956/- is to be given to all the workers. At same, on the issue, he also sought advise of the Labour Commissioner, Haryana, who vide his letter dated 11.05.2010 Ex.PW3/4, endorsed his opinion and directed to get implement the settlement which was affected between the parties. Hence, the management side in view of their own interpretation cannot back out from the terms and conditions of settlement arrived at between the parties.

17. Keeping in view the above-said observation and made discussion, it is of the considered view that as per clause No.3 of the settlement, all the workers are entitled for the benefit of increase in their wages w.e.f. 1.7.2007. Hence, the present

issue is decided in favour of the worker union.”

3. Learned counsel for the petitioner relied on a decision of the Supreme Court in the case of **NTPC Ltd.** v. **Bhasin Construction P. Ltd.**; 2015 (1) SCC (Civil) 309 to the extent that Labour Court has erred in not interpreting Clause No.3 of tripartite agreement dated 4.4.2006. The cited decision is not relevant for the purpose of deciding clause No.3 of tripartite agreement dated 4.4.2006.
4. Accordingly, petition stands dismissed.

06.03.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**