

no. 1-workman led his entire evidence by 23.07.2014. Thereafter, the petitioner was granted several opportunities to lead its evidence but it did not do so. Instead, on 27.01.2015, an application was filed on behalf of the petitioner seeking therein to amend its written statement to the effect that respondent no. 1 – workman i.e. Ram Niwas son of Beeki Lal was never in the employment of the petitioner. Such application was dismissed by the Labour Court through the order under challenge in the present proceedings.

Learned counsel for the petitioner has been heard.

Respondent no. 1-workman, in his claim statement filed by him before the Labour Court, had alleged therein wrongful termination of his services by the petitioner. To such claim statement, on 06.08.2013, the petitioner filed its written statement, a perusal of which reveals that the petitioner therein had specifically stated that respondent no.1's services had not been terminated. Rather, it was he who had continuously absented from his duties w.e.f. 15.11.2011. The petitioner further goes on to state that respondent no.1 was advised by the petitioner to join his duties but he, being under the influence of Trade Union Activists, failed to accede to the petitioner's advice. It was still further submitted by the petitioner that conciliation proceedings between the representatives of the petitioner and respondent no. 1 - workman took place before the Conciliation Officer, Gurgaon but no settlement could be arrived at due to respondent no.1's adamant behaviour.

During the course of evidence, respondent no.1-workman

appeared as his own witness as PW-1 and deposed in support of the claim

set up by him. He was cross-examined by the petitioner. Learned counsel for the petitioner admits that he was only questioned on the basis of the stand taken by the petitioner in its written statement and that no question was posed to him with regard to his identity as also the fact that he had never been employed by the petitioner.

After respondent no. 1 closed his evidence, the petitioner sought and got several adjournments on the ground that the matter between the parties could be amicably settled. However, no settlement took place. Rather, through the proposed amendment, the petitioner denied the relationship of master and servant between respondent no. 1 and the petitioner which was admitted to in the written statement filed by it earlier.

Once on 06.08.2013, the petitioner had filed a written statement through which it had acknowledged respondent no. 1 to be its employee and set up a defence that it is he who had abandoned the job as also taken a plea that in the conciliation proceedings before the Labour-cum-Conciliation Officer, Gurgaon, no settlement between the parties could take place due to respondent no.1's adamant attitude, through the proposed amended written statement, the petitioner cannot be allowed to withdraw such admission, especially when during the course of cross-examination of respondent no.1, the petitioner did not even make a suggestion with regard to the fact that respondent no. 1 was never in the employment of the petitioner.

In view of the above facts, which speak for themselves, no merit is found in the present petition and the same is accordingly dismissed.

A perusal of the record reveals that respondent no. 1 had closed

his evidence on 23.07.2014 and on 27.01.2015, the petitioner had filed an application seeking amendment in its written statement. Such application was decided by the Labour Court on 19.09.2017 i.e. after 02 years and 08 months. Even after the dismissal of petitioner's amendment application, it approached this Court one year thereafter. Learned counsel for the petitioner informs this Court that in the integrum also, proceedings have remained pending before the Labour Court and that even today, the petitioner is yet to lead its evidence.

It is unfortunate that even after respondent no. 1 closed his evidence about five years ago, the matter is pending before the Labour Court in which the petitioner is yet to lead evidence.

In the light of such inordinate delay, it is directed that respondent no.1's reference be finally adjudicated upon by the Labour Court within six weeks from the date of receipt of a certified copy of this order.

(DEEPAK SIBAL)
JUDGE

March 25, 2019
monika

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>