

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

**C.R. No.7799 of 2018 (O&M)
Date of Decision.22.02.2019**

The Chairman, IET Bhaddal Campus Bhaddal

...Petitioner

Vs

Presiding Officer, Industrial Tribunal, SAS Nagar (Mohali) and
another

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Pawan Kumar Mutneja, Advocate
for the petitioner.

Mr. Ravi Gakhar, Advocate
for respondent No.2.

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AMIT RAWAL J. (ORAL)

The present revision petition is directed against the impugned order dated 21.08.2018 (Annexure P-6) whereby the Labour Court while entertaining the interim application (Annexure P-4) pending reference under Section 2(k) of the Industrial Disputes Act has directed the Management to allow the workmen of the Union to enter into work place for discharging their duties and not to change the service during the pendency of the demand notice.

Mr. P.K. Mutneja, learned counsel appearing on behalf of the petitioner submitted that the petitioner is running an educational institutional by the name of IET Bhaddal Technical Campus at village Bhaddal. It has over 1700 students with the faculty of around 140.

Respondent No.2 Union of employees started agitation compelling the petitioner to approach Civil Court vide Civil Suit

bearing No.930 of 2016 for permanent injunction restraining the defendants from interference in the working of the petitioner and creation of any type of hindrance in running of the educational institution, much less, blockage of the passage etc.

The Civil Court in application moved under Order 39 Rule 1 and 2 CPC vide order dated 12.03.2018 (Annexure P-1) restrained the respondents-defendants from holding dharnas and demonstrations within the radius of 300 meters of office premises and blocking of road leading to institute during working hours, except in due course of law till final disposal of the suit.

Respondent-Employees' Union raised the demand notice dated 03.10.2017 (Annexure P-2) under Section 2-K of the Industrial Disputes Act with copy to the Assistant Labour Commissioner and owing to the conciliation proceedings, reference was referred to the Labour Court on 10.01.2018, registered on 16.01.2018. During the pendency of the reference in pursuance of demand notice, interim application (Annexure P-4) was filed seeking relief as granted by the Court.

He submitted that the order of the trial Court is against the provisions of Section 20 of the Industrial Disputes Act. In support of aforementioned would rely upon para 34 of the judgment rendered by Hon'ble Supreme Court in **Mahendra Jain and others Vs. Indore Development Authority and others (2005) 1 SCC 639.**

Mr. Ravi Gakhar, learned counsel appearing on behalf of respondent No.2 supported the impugned order by urging that it was based upon the enquiry report of December, 2017 conducted by the

Assistant Labour Commissioner establishing the interference and impediment. As per the provisions of Section 2(b), 'award' means an interim or a final determination of any industrial dispute or of any question relating thereto and 'industrial dispute' as per sub-clause (k) of Section 2 include any dispute or difference between employers and employee, or between employers and workmen, or between workmen and workmen connected with the employment or non-employment or terms of employment or with the conditions of labour, of any person. The order does not tantamount to allowing the demand notice/decretal of the reference and cannot be said to be beyond the terms of reference, thus, urges this Court for dismissal of the revision petition with exemplary costs.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is force and merit. It would be apt to reproduce the reference and the operative part of the interim relief granted by the trial Court:-

“1. Whether the demands raised by the I.E.T. College Employees Union, Bhaddal (Roop Nagar), Post Box No.28, Kurali Road, Ropar in the demand notice dated 3.10.2017 against M/s I.E.T. Bhadal College, Roop Nagar are legal?

2. Whether the employees working for the last three years are entitled for regularization of their service in the regular grade? If so, to what relief, they are entitled for?

3. Whether the employees are entitled to summer and

winter uniforms as well as shoes and gloves?

4. Whether the employees are entitled to equal work, equal pay as per the judgment dated 26 Oct, 2016 passed by the Hon'ble Supreme Court.?"

Operative part of interim order

"In view of my above discussion, this application for interim relief succeeds and the same is hereby allowed for applicants except Gurwinder Singh Store Keeper, Shingara Singh Attendant, Gurwinder Singh alias Goldi Store Keeper. The management is directed to permit the applicants to enter the work place to discharge their duties within the period of seven days from the date of this order. The management is further directed to change the service conditions of the applicants during the pendency of demand notice of A/R. The applicants except three applicants mentioned above, are directed to join their duties forthwith. Application be tagged with Reference No.26 of 2018 titled as Union Vs. IET Bhadal."

On comparison of the reference as well as the interim relief granted by the trial Court, I am prima facie of the view that it was beyond reference and such relief cannot be granted, for, in the original demand notice, the claim was as under:-

"1. In view of the inflation the salary of all workers be increased by 20%.

2. If the employee be sent on duty outside the college

complex then he will be given T.A. and D.A.

3. The employees be regularized who are working for the last 3 years.

4. All facilities available as per labour laws be given.

5. Stop the victimization of the Union Leader and Union Members by the College Management.

6. The increase in the salary of employees be done as D.A. Points and Rs.10 per point as per announced by the Punjab Government and Labour Department from time to time.

7. The money of food and tea etc. should not be deducted from the employees working in the College Mess and Canteen.

8. That all the facilities of employees which were stopped during the part time by the management be restarted.

9. All the employees be given uniform, gloves and shoes of winters and summers for work free of cost.

10. The cleaning staff be given safety kits as per season.

11. The order dated 26.10.2016 of equal pay for equal work passed by the Hon'ble Supreme Court be applicable.”

There is no dispute to the definition of industrial dispute or award but fact of the matter is that reference/demand is bereft of any such plea and in case the interim order is allowed to sustain, possibility of creating impediment or hindrance in the working of the

College and smooth functioning may be impacted. It would be in the fitness of things for the Labour Court to decide the reference as early as possible.

In view of aforementioned facts, the impugned order suffers from infirmity and accordingly set aside. The revision petition is allowed.

(AMIT RAWAL)
JUDGE

February 22, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No