

(110) IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP No.13027 of 2019  
Date of decision : 05.07.2019

Umesh Kumar Munjal

.... Petitioner

Versus

The Presiding Officer, Hisar and another

.... Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Kanhiya Soni, Advocate for the petitioner.

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**B.S. WALIA, J. (ORAL)**

[1] Prayer in the writ petition is for the issuance of a writ of certiorari for setting aside award dated 26.04.2019 (Annexure P-5) passed by respondent No.1 dismissing the application (Annexure P-3) filed by the petitioner/workman for leading additional evidence.

[2] Brief facts of the case leading to the filing of the writ petition are that the petitioner was appointed as Sales Promotion Employee by respondent No.2/Management on 19.06.2008 and claiming that on account of participation in trade union activities, he was transferred on 07.11.2014 from Bhiwani to Karwar Headquarters. Therefore, the petitioner approached the learned Industrial Tribunal by filing a claim statement (Annexure P-1). On notice, respondent No.2/Management appeared and filed its written statement on 06.09.2016. Respondent No.2/Management denied the claim of the petitioner in its written statement (Annexure P-2). After completion

of pleadings and framing of issues, both the parties concluded their evidence. Thereafter, an application was moved by the petitioner/workman for leading additional evidence on the ground that MW-1 i.e. Sh. Saibal Mukherjee, Assistant General Manager had not stated reasons for transfer of the petitioner/workman and had showed his ignorance regarding trade union activities of the workman. Therefore, in order to get the truth, the petitioner intended to examine Sh. Samir Johar, Regional Manager in additional evidence.

Learned Industrial Tribunal dismissed the application on the ground that both the parties had concluded their evidence in affirmative after availing sufficient opportunities. Therefore, the petitioner/workman in the garb of moving an application for additional evidence could not be permitted to lead fresh oral evidence and that too of a person who was an officer of the Management and was not examined by the Management especially in view of the fact that it was not the case of the workman that in additional evidence he intended to place on record certain documents which he could not do so earlier for explainable reasons.

[3] Learned counsel for the petitioner has reiterated the arguments raised before the learned trial Court.

[4] I have considered the submissions of learned counsel for the petitioner.

[5] Admittedly, after completion of pleadings and framing of issues, both the parties concluded their evidence. Thereafter, workman himself appeared as WW1 and also proved certain documents whereas respondent No.2 – Management examined Sh. Saibal Mukherjee, Assistant General Manager as MW1. In the application (Annexure P-3) filed by the petitioner for additional evidence, it has not been mentioned that the

evidence now sought to be produced on record was not in the notice of the petitioner or that despite best efforts, it could not be produced earlier. Application (Annexure P-3) was moved only after both the parties concluded their evidence and the case was fixed for arguments.

[6] Once the petitioner after availing sufficient opportunities had concluded his evidence in affirmative then for proving an issue onus of which was on the petitioner, the petitioner cannot be allowed to lead fresh oral evidence under the garb of an application for additional evidence without substantiating that evidence was not either available earlier or despite best efforts and circumstances beyond the control of the petitioner, the evidence now sought to be produced could not be produced earlier. The aforementioned essential requirements for being allowed to lead additional evidence not having been pleaded or proved, the application (Annexure P-3) was rightly dismissed by the learned Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar (respondent No.1).

[7] Accordingly, finding no merit in the writ petition, the same is dismissed in limine.

05.07.2019  
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(B.S. Walia)  
Judge

1. Whether speaking/reasoned: Yes/No.
2. Whether reportable : Yes/No.