

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 14.01.2019****CWP No.3719 of 2013 (O&M)**

Atma Singh

...Petitioner

Vs.

M/s VXL Technologies Limited & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. A.P.Bhandari, Advocate, for the petitioner.

Mr. S.S.Saini, Advocate, for respondent No.1.

RAJIV NARAIN RAINA, J. (ORAL)

Heard parties and perused the papers.

The impugned award has to be set aside for the following reasons: (1) that the reference regarding the legality and validity of the termination has not been directly answered; (2) objection of the management that the petitioner was a Senior Supervisor and not a workman by definition has not been answered; (3) the status of the enquiry and whether it was fair and proper to the extent conducted and its inconclusiveness has also not been answered, and (4) the case has been concluded by the short cut without actually deciding it on merits in accordance with law.

When none of the jurisdictional facts-in-issue have been dealt with and decided by returning findings of fact, there is nothing much left for this Court to examine the dispute in judicial review and for the Court to set about answering the issues on the evidence, by itself, for the first time in a proceeding under Article 226 of the Constitution of India. This is not an

appeal against the award of the Labour Court. The award is very sketchy and is apparently bereft of reasons expected from a Presiding Officer, Industrial Tribunal -cum- Labour Court deciding a reference. Even the compensation part is erratic and does incomplete dispensation of justice with the amount arrived at without assigning any cogent reasons and basing quantum on a half baked compromise with management ready to pay retrenchment compensation as per Section 25-F of the Industrial Disputes Act, 1947 and one month additional salary to the claimant.

Reference to judgment in Bal Kishan Vs. Presiding Officer, Labour Court, Panipat, 1996 (3) SCT 548 in the award is wholly inappropriate to the context. There was no dispute about completion of 240 days or of the burden of proving completion of 240 days. I am sorry to say this kind of approach is not judicious and shows lack of probity and sensitivity.

Accordingly, the instant petition is allowed. The impugned award is set aside. The case is remitted to the Industrial Tribunal -cum- Labour Court-II, Faridabad for a fresh decision on the referred and the issues framed by recording reasons on each of them. The amount which has been paid to the workman and appropriated by him shall remain adjustable according to the final outcome of the fresh award.

Since the evidence adduced by the parties is available on record, it would not be difficult for the Labour Court to conclude the remand proceedings as only hearing the parties is required to be given. This Court expects that the Labour Court will make an endeavour to pass a fresh award within a period of four months from the date when the parties appear before

it by returning proper findings of facts on all the issues based on the evidence available on record.

It is made explicit that parties would not be allowed to lead additional evidence other than what has been led before the Labour Court and exists on record.

Parties are directed to appear before the learned Labour Court on 28.01.2019.

14.01.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>