

LPA No. 728 of 2018 (O&M)

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

LPA No. 728 of 2018 (O&M)

Date of decision: 18.03.2019

M/s Arvind Engineers

... Appellant

Versus

Keshav Yadav and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Mohak Bhadana, Advocate,
for the appellant.

None for the respondent.

KRISHNA MURARI, CHIEF JUSTICE (Oral)

Despite service, no one appears on behalf of the respondent-workman.

We have heard learned counsel for the appellant.

This intra-court appeal, under Clause X of the Letters Patent, is directed against the judgment and order dated 26.2.2018, passed by the learned Single Judge, allowing the writ petition filed by the respondent-workman challenging the award of the Labour Court.

The respondent-workman, working as a Pressman with the appellant-Company, submitted his resignation vide letter dated 15.12.2003, stating therein for settlement of his outstanding dues immediately. The resignation letter was accepted and the appellant-employer is stated to have settled the outstanding dues, by making payment of ₹17,175/- in cash. Thereafter, the respondent-workman raised a dispute by issuing a demand notice dated 18.12.2003, on which a reference was made. The Labour Court

LPA No. 728 of 2018 (O&M)

holding that it was a case of voluntary resignation submitted by the workman and not a case of termination, answered the reference against him.

Aggrieved, the respondent-workman challenged the award of the Labour Court in a writ petition. The learned Single Judge, vide the judgment and order impugned in this appeal, allowed the writ petition mainly on the ground that the resignation letter was accepted in undue haste and being a model employer, appellant was supposed to enquire from the workman as to why he had submitted his resignation, keeping in view the length of service rendered by him.

A perusal of the resignation letter goes to show that request was made to accept it forthwith and the employer-appellant carried it out accordingly. It was not the case where some date was specified in the resignation letter from which it was to be effected. Once there was no specification about accepting the resignation from any future date, rather, insistence was made to accept it forthwith, we find no fault with the employer-appellant in accepting the same. We do not find any justification in the view taken by the learned Single Judge holding that it was incumbent upon the employer to have enquired from the respondent-workman about the reason for his resignation, and the same cannot constitute any ground for upsetting the award passed by the Labour Court.

Further, notice of motion was issued in this case on 17.05.2018, wherein the operation of the impugned order passed by the learned Single Judge was stayed, subject to compliance of Section 17-B of the Industrial Disputes Act, 1947, ('the Act', for short). However, despite service, the respondent-workman neither chose to put in appearance, nor furnished an affidavit, in terms of Section 17-B of the Act.

LPA No. 728 of 2018 (O&M)

The matter can be viewed from another angle. The Labour Court passed the award on 5.12.2008 and the writ petition was filed in 2013, i.e. after about 4½ years. Though the writ petition was liable to be thrown out on this ground alone, but the learned Single Judge, without recording any specific reason, condoned the delay and entertained the writ petition.

For the aforesaid facts and discussion, the impugned judgment and order, dated 26.2.2018, passed by the learned Single Judge is not liable to be sustained and is hereby set aside. The appeal is accordingly allowed.

No order as to costs.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

March 18, 2019

AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: NO