

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

CR-575-2021

Date of decision: 10.03.2021

M/S Malwa Gas Service

...Petitioner

Versus

Karnail Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Abhivadya Sood, Advocate,
For the petitioner.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Petition herein is under Article 227 of Constitution of India for setting aside the order dated 04.02.2021 (Annexure P-1) vide which an application for production of documents of the respondent-workman has been partly allowed by the Presiding Officer, Industrial Tribunal, Patiala.

2. Learned counsel for the petitioner submits that respondent-workman claimed that he was in employment with the petitioner-management from 04.08.2008 to 31.01.2013. The same was controverted by the petitioner-management by saying that respondent workman joined on 01.02.2013. Thereafter, an application was filed by the respondent-workman before the learned Industrial Tribunal, Patiala for production of records from the year 2008. Learned Tribunal vide impugned order dated 04.02.2021 (Annexure P-1) disposed of the application by directing the petitioner-management to produce the record of the establishment from 04.08.2008 and also the payment of wages record along with cash book.

3. The argument of learned counsel that vide impugned order dated 04.02.2021 (Annexure P-1) learned Tribunal has already observed that

in case the record from the year 2008 onwards is not produced then adverse inference would be drawn shall come in his way for non-production of records.

4. He submits that under the Payment of Wages Act, the legal mandate on the part of the employer is to maintain records for the past 3 years. He submits that it is not humanly possible to maintain such voluminous records in view of the nature of job rendered by the workmen due to their frequent hiring and firing.

5. Be that as it may, the argument that adverse inference would be drawn is based on observations made by learned Tribunal while directing the petitioner/management to produce the records. The same, in any case, would be eventually determined at the final stage and it is open to the management to argue whether or not adverse inference can be drawn in the teeth of the statutory mandate being only to maintain 3 years of records. Learned Tribunal at that stage would proceed in accordance with law, as far as the instant proceedings are concerned, no grounds are made out to interfere.

6. The petition is, accordingly, disposed of with aforesaid observations.

March 10, 2021

vandana

(ARUN MONGA)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No