

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

**CWP-4559-2021**

**Date of Decision: 26.02.2021**

M/s Mangal Machines Pvt. Ltd.

...Petitioner

**Versus**

Presiding Officer, Industrial Tribunal, Patiala Punjab and another

....Respondents

**With**

**CWP-4613-2021**

M/s Mangal Machines Pvt. Ltd.

...Petitioner

**Versus**

Presiding Officer, Industrial Tribunal, Patiala Punjab and another

....Respondents

**CORAM: HON'BLE MR JUSTICE ARUN MONGA**

Present : Mr. Mahesh Dheer, Advocate  
for the petitioner.

**(Presence marked through video conference).**

**ARUN MONGA, J.**

1. Both the above titled cases are being disposed of vide this common order, as facts and issues involved therein are similar.

2. Grievance of the petitioner, a private limited company, is qua two impugned awards, both dated 19.8.2019, rendered by Industrial Tribunal, Patiala, whereby the claim of two workmen/private respondents was partly allowed i.e. to the extent of payment of compensation of Rs.30,000/- and Rs.35,000/-, respectively.

3. Learned counsel for the petitioner contends that the Tribunal has mechanically proceeded to accept the claim of two workmen. Neither any reasons thereof have been recorded nor is same in accordance with applicable statutory

provisions. Claim of the workmen did not warrant acceptance and therefore, impugned awards are liable to be set aside.

4. Succinct, factual narrative first. The workmen raised their industrial dispute vide demand notice dated 15.10.2014. Pursuant thereto, conciliation proceedings took place which resulted in futility. Ultimately, matter was referred to the Industrial Tribunal, culminating in the impugned awards herein. The workmen claimed that they had joined the petitioner/company as helpers on 01.02.2008 and 01.03.2009, drawing salary of Rs.5,200/- and Rs.6,248/- per month, respectively. Their services were illegally terminated on 16.12.2013 and 21.3.2014, allegedly in violation of Sections 25F, 25G and 25H of the Industrial Dispute Act, 1947. The defense of the petitioner-company was/is that there is no question of making any payment of monthly salary to either of their workmen, as they were never employed in the company. Hence, question of termination of their services did not arise at all.

5. I have heard the learned counsel for the petitioner and perused the record appended with the writ petition.

6. The impugned awards rendered by the Tribunal is well reasoned and based on appreciation of evidence adduced before it by both the sides. No interference of this Court is warranted by way of judicial review for the reasons stated hereinafter.

7. The management witness (Accounts Manager), in his cross-examination, candidly admitted before the Tribunal that there were about 32-35 workers in the company. He neither knew whether all the workers were permanent or temporary, nor could he tell whether the petitioner/company maintained any records in respect of the workers. He though admitted that attendance register and wage register was/is maintained by the petitioner/company. On being asked to produce the record, he stated that he cannot produce the same due to its non-availability. On being asked about manner of the payment of salaries to the workers, thereto also he feigned

ignorance.

8. On the other hand, the workmen also did not produce any document in support of their claim of either being an employee, termination of their services or payment of salary.

9. Net result, neither management nor workmen produced any employer-employee proof.

10. As was expected, natural justification of the workers was that they not being in possession of the relevant records, were not in a position to produce the same. Accordingly, vide an application dated 18.05.2015, they sought to summon the relevant record of the management *viz* the attendance register of daily wages, wages register and inspection book inspected by the Labour Inspector for the relevant period. Despite ample opportunities, the management did not produce the said record, even though in the cross-examination it was admitted that the said record indeed was maintained by the management.

11. Legal position in this respect is not *res integra*. If a Court directs the employer to produce the employment record and yet it is not produced, the only consequential choice is to draw an adverse inference against the employer. It is always the case that service record of the workers is in the custody of an employer. Onus to prove their employment was discharged by the workmen, as they had filed specific application before the Tribunal praying for production of the record by the employer.

12. In the premise, the learned Tribunal below rightly proceeded to draw an adverse inference qua the non-production of the relevant record by the employer/petitioner-company. No interference thereof is thus warranted. Writ petitions are accordingly dismissed. No orders as to costs.

13. In the parting, however, this Court is constrained to observe that had the workers chosen to impugn the award, perhaps an indulgence could have been shown by this Court to adjudicate on the admissibility of grant of relief qua their

reinstatement with or without backwages and continuity of service since etc., as prima facie, their services seem to have been terminated in violation of Section 25F of the Act. Be that as it may, since the workers are neither before this Court nor in any case, aforesaid relief is entitled as a matter of right, this court would simply leave the matter as it stands. The meagre compensation of Rs.30,000/- and 35,000/-, respectively awarded to the workmen is fully justified.

**February 26, 2021**  
*vivek*

**(ARUN MONGA)**  
**JUDGE**

Whether speaking/reasoned:      Yes/No  
Whether reportable:                Yes/No