

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

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LPA No.740 of 2022 (O&M)
Date of Decision: September 1st, 2022

M/s Hindustan Silk Mills

...Appellant

Versus

Shiv Rati and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Abhilaksh Grover, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.1771-LPA of 2022

Prayer in this application is for condonation of delay of 16 days in filing the appeal.

For the reasons mentioned in the application, which is duly supported by an affidavit of the applicant-appellant, the same is allowed.

Delay of 16 days in filing the appeal stands condoned.

CM No.1772-LPA of 2022

Prayer in this application is for placing on record documents Annexures A-8 and A-9.

Application is allowed subject to just exceptions.

Documents Annexures A-8 and A-9 are taken on record.

LPA No.740 of 2022

Challenge in this appeal is to the order dated 13.05.2022 passed by the learned Single Judge, whereby the writ petition preferred by the appellant challenging the award passed by the Labour Court, Faridabad, ordering reinstatement of the respondent-workman with 50% back wages, has been dismissed, however, in the light of the fact that during the pendency of the writ petition, the said respondent-Shiv Rati has expired, her legal heirs were held

entitled to consolidated amount of ₹5 lakh with interest in the light of the judgment of the Supreme Court in ***BSNL Versus Bhurumal 2014 (3) SCT 49***.

It is the contention of learned counsel for the appellant that the appellant had, along with Review Application i.e. RA No.132 of 2022, placed on record the notification dated 09.07.1981 stating that the labour contractor was duly registered, who had supplied the services of the respondent. It is, therefore, asserted by the counsel for the appellant that respondent-Shiv Rati was not an employee of the appellant, rather she had been engaged through a labour contractor, who had sent her for working with the appellant. Assertion has also been made that the appellant is engaged in the process of weaving alone and, therefore, it cannot be said to be a textile mill. Since the limited aspect of weaving was involved in the process of manufacture which was so mentioned in the notification while respondent was working in the shop and thus had nothing to do with the weaving, as such she was not entitled to be treated as a workman of the appellant and the bar as imposed in the notification would not apply to the appellant.

This contention of learned counsel for the appellant cannot be accepted in the light of the fact that firstly there was no notification which was placed on record which would justify the claim that the appellant had not engaged the services of respondent No.1, rather had engaged her through a labour contractor and secondly the notification which has been relied upon by the Labour Court and has also been mentioned and accepted by the learned Single Judge clearly indicates the packaging and the weaving as well. Since a clear finding has been recorded by the Labour Court which has been accepted and upheld by the learned Single Judge, we do not find any reason to interfere in the said finding.

Learned counsel for the appellant contends that the issue with

regard to the engagement through a labour contractor was very much pressed but the only thing which went against the appellant was that the licence of the labour contractor was not placed on record.

This plea of the counsel for the appellant also cannot be accepted, although it was sought to be placed on record in the Review Application before the learned Single Judge but no reason as to why the said document could not be produced before the Labour Court and as to why it was produced at the stage of review, when there was every possibility of placing the same when the writ petition was being filed and argued.

We, therefore, do not find any justification for accepting the said document at this belated stage.

As regards the compensation, since the compensation awarded is based upon the judgment of the Hon'ble Supreme Court in *BSNL Versus Bhurumal's case (supra)*, we are not inclined to accept the prayer made by the counsel for the appellant that the compensation as has been granted is on the higher side.

Finding no merit in the present appeal, the same, therefore, stands dismissed.

In the light of the dismissal of the appeal, CM No.1773-LPA of 2022 for grant of stay stands disposed of as infructuous.

(AUGUSTINE GEORGE MASIH)
JUDGE

September 1st, 2022
Puneet

(ALOK JAIN)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No