

LPA No.841 of 2015

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

LPA No.841 of 2015

Date of decision : 05.08.2022

M/s Sarvatra Integrated Service Pvt. Ltd.

.....Appellant

VERSUS

Presiding Officer, Industrial Tribunal-cum-  
Labour Court and another

....Respondents

**CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH  
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Rajiv Sharma, Advocate  
for the appellant.

Mr. Pravindra S. Chauhan, Sr. DAG, Haryana  
for respondent No.1.

None for respondent No.2 – Workman.

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**AUGUSTINE GEORGE MASIH, J.**

Challenge in this intra Court appeal is to the judgment passed by the learned Single Judge, dated 04.05.2015, whereby the writ petition preferred by the appellant-M/s Sarvatra Integrated Service Pvt. Ltd., challenging the *ex parte* award dated 11.11.2014 (Annexure P-5) ordering reinstatement of respondent No.2 – workman with all consequential benefits by holding the termination of his services on 10.07.2011 as illegal being violative of the provisions of Section 25-F of the Industrial Disputes Act, 1947 and the order dated 27.01.2015 (Annexure P-8) dismissing the application dated 22.01.2015 filed by the appellant for setting aside the *ex parte* award, stands dismissed.

It is the contention of the learned counsel for the appellant that the counsel, who was appointed as authorized representative of the appellant, although initially put in appearance on behalf of the appellant – Management on 12.09.2013 before the Industrial Tribunal-cum-Labour Court-II, Gurugram, but subsequently failed to appear leading to the appellant – Management being proceeded against *ex parte* and thereafter, *ex parte* award dated 11.11.2014. His contention is that the appellant – Management cannot be made to suffer because of the negligence on the part of the authorized representative. On this basis, it has been contended that the impugned award deserves to be set aside. Similarly, he has prayed that the application which has been preferred by the appellant for setting aside the *ex parte* award on these grounds itself should have been accepted and an opportunity should have been given to the appellant – Management to file a written statement and contest the Reference, which has been denied on the ground of the said application for setting aside the *ex parte* having been filed after a period of delay. Counsel, thus, contends that the present appeal may be allowed and the award dated 11.11.2014 (Annexure P-5) as well as order dated 27.01.2015 (Annexure P-8) be set aside including the impugned judgment dated 04.05.2015 passed by the learned Single Judge.

Having considered the submissions made by the learned counsel for the appellant and on going through the pleadings and the records, we are unable to accept the said contentions as have been raised. Reference was made by the Competent Authority, wherein upon notice having been issued, authorized representative had put in appearance on 12.09.2013 but thereafter, the case was fixed for filing written statement but

because of non-appearance on behalf of appellant – Management, it was proceeded against *ex parte* on 30.01.2014. Respondent No.2 – workman led his evidence and on the basis of the same, Industrial Tribunal-cum-Labour Court-II, Gurugram, came to the conclusion that the termination of his services was in violation and non-compliance of the provisions of Section 25-F of the Industrial Disputes Act, 1947, leading to the passing of the award dated 11.11.2014 (Annexure P-5) ordering reinstatement of respondent No.2 – workman in service with all consequential benefits. The award was published on 20.11.2014. The application for setting aside the *ex parte* award was required to be moved within a period of 30 days from the date of publication i.e. on or before 19.12.2014, but the same was not done within the time stipulated.

The stand of the appellant is that it came to know about the *ex parte* award on 05.01.2015 and moved an application for setting aside the same on 12.01.2015. Since the application has not been moved within a period of 30 days from the date of publication of the award, the Court having become *functus officio*, could not have been entertained the application and has rightly rejected the same. Otherwise also, it has come on record that it was incumbent upon the appellant – Management to hold an enquiry by serving a charge-sheet on respondent No.2 – workman but no such procedure has been followed while passing the order of termination of his services. It is also not in dispute that prior to terminating the services of respondent No.2 – workman, the provisions of Section 25-F of the Industrial Disputes Act, 1947, had not been complied with.

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In view of the above, we do not find any ground to interfere in the well-reasoned judgment passed by the learned Single Judge as well as in the impugned award and the order passed by the Industrial Tribunal-cum-Labour Court-II, Gurugram and therefore, dismiss the present appeal being devoid of merit.

(AUGUSTINE GEORGE MASIH)  
JUDGE

05.08.2022  
Harish

(SANDEEP MOUDGIL)  
JUDGE

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|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |