

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

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**CWP No.27878 of 2022 (O&M)**  
**DATE OF DECISION: 21<sup>st</sup> DECEMBER, 2022**

**Blue Dart Express Ltd.**

**.... Petitioner**

**Versus**

**Presiding Officer, Labour Court at Industrial Tribunal-cum-Labour  
Court-1, Gurugram and another**

**.... Respondents**

**CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present : Mr. Animesh Sharma, Advocate,  
for the petitioner.

Mr. Pawan Singh, Advocate,  
for respondent No.2.

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**RAJBIR SEHRAWAT, J. (Oral)**

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ, order or direction, especially in the nature of Certiorari for quashing the orders dated 08.09.2022 (Annexure P-1), 23.08.2017 (Annexure P-2) and 24.12.2013 (Annexure P-3) passed by Presiding Officer, Labour Court, Gurugram, with certain other prayers made in the present petition.

The facts, as pleaded in the present petition, are that the respondent-workman asserted that he had worked with the petitioner-company w.e.f. 16.04.2008 to 10.11.2012. The service of the respondent-workman was terminated without payment of any retrenchment compensation. The respondent-workman had raised an industrial dispute.

A reference was made by the appropriate government to the concerned Labour Court. The petitioner had appeared before the Labour Court and sought time to file the written statement, first time in the year 2013. However, no written statement was filed. Thereafter, three more opportunities were granted to the petitioner, however, the petitioner did not file the written statement. Accordingly, the Labour Court had struck off the rights of the petitioner to file the written statement vide order dated 24.12.2013. Thereafter, the petitioner had filed an application before the Labour Court for recalling of order dated 24.12.2013. However, that application was also dismissed, vide order dated 23.08.2017 on the ground that there was no such provision in the Industrial Disputes Act, 1947 under which the Labour Court could review its earlier order. Even, the review filed by the petitioner was also dismissed vide order dated 08.09.2022. Challenging the said orders passed by the Labour Court, the present petition has been preferred by the petitioner-employer.

Arguing the case, learned counsel for the petitioner has submitted that the default in filing the written statement had arisen because of the circumstances beyond the control of the petitioner. The petitioner had, effectively, got only three months duration for filing of the written statement. Moreover, while moving an application for recalling of the order passed by the Labour Court, whereby the right to file the written statement was struck off, the petitioner had even attached the written statement along with the application. However, the same was not taken on record because of the adverse order already having been passed by the Labour Court. Therefore, the petitioner is not at deliberate fault.

The respondent-workman can very well be compensated in terms of costs; so as to grant opportunity of hearing to the petitioner. Hence, the impugned orders deserve to be set aside and the petitioner deserves to be granted an opportunity of hearing.

On the other hand, learned counsel for the respondent-workman has submitted that the petitioner had deliberately not filed the written statement. Even after grant of last opportunity, no written statement was filed by the petitioner. Therefore, the petitioner does not deserve any other opportunity to contest the claim of the respondent-workman after such a long time. However, the counsel has not been able to dispute that along with the application, filed by the petitioner for recalling of the order of the Labour Court, the written statement was duly attached by the petitioner.

Having heard learned counsel for the parties and having perused the record, this Court finds that the Labour Court had granted several opportunities to the petitioner to file the written statement, including a specified last opportunity. However, the petitioner had not availed the said opportunities. That had led to striking off the right of the petitioner to file the written statement. Therefore, this Court does not find the orders passed by the Labour Court to be ex-facie illegal or improper; as such. However, the procedure of law is handmade to advance the interest of the substantial justice. The interest of justice demands that, as far as possible, none of the parties should go unheard. Every possible effort has to be made to ensure that the party to a *lis* is granted opportunity to present its case. Therefore, it would not be unjustified, if the petitioner is granted one opportunity to file the written statement and

to contest the proceedings accordingly, however, by putting it to some appropriate financial burden.

In view of the above, the present writ petition is allowed. The orders impugned in the present petition are set aside and the petitioner is granted one opportunity to file the written statement and thereafter to contest the claim of the respondent-workman, in accordance with law, however, subject to payment of Rs.10,000/- as costs; to be paid to the respondent-workman.

The aforesaid cost of Rs.10,000/- has been paid to the respondent-workman by way of demand draft No.031424 dated 16.12.2022, in the name of respondent-workman, which has been handed over the counsel for the respondent-workman in the Court itself.

**21<sup>st</sup> DECEMBER, 2022**  
*‘sandeep’*

**(RAJBIR SEHRAWAT)**  
**JUDGE**

|                                   |            |           |
|-----------------------------------|------------|-----------|
| <i>Whether speaking/reasoned:</i> | <i>Yes</i> | <i>No</i> |
| <i>Whether Reportable:</i>        | <i>Yes</i> | <i>No</i> |