

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14241-2023 (O/M)

Date of decision : 30.10.2023

M/s Mark Exhaust System Limited

..... Petitioner

Versus

The Presiding Officer, Industrial Tribunal-cum-Labour Court Circle-II,
Gurugram and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Ms. Abha Rathore, Advocate
for the petitioner.

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HARSH BUNGER, J. (ORAL)

1. Mr. Sumeet Jain, Advocate appears and files Vakalatnama on behalf of respondents No. 3 and 4 in Court today which is taken on record subject to all just exceptions.

2. The instant writ petition has been filed under Articles 226/227 of Constitution of India seeking a writ in the nature of certiorari/mandamus for setting aside the portion of the order dated 13.01.2023 (Annexure P-1) passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Gurugram (respondent No. 1 herein), to the extent whereby the defence of the petitioner has been struck off.

Further prayer has been made to permit the petitioner to file written statement.

3. I have heard learned counsel for the parties and have also perused the paperbook with their able assistance.

4. A perusal of impugned order dated 13.01.2023 (Annexure P-1) reveals that the petitioner-Management had not submitted its written statement before the Tribunal below on the plea that it had challenged the

validity of reference before this Court in CWP-430-2021.

5. It appears that the Tribunal below has struck off the defence of petitioner-Management on account of the fact that despite availing four opportunities, petitioner-Management has not filed its written statement.

6. It is informed that CWP-430-2021 has been finally decided by this Court on 03.10.2023 ; whereby validity of reference has been upheld.

7. Considering the totality of circumstances, I am of the considered view that no prejudice would be caused to the parties to the reference if one opportunity is afforded to petitioner-Management to put-forth its stand by filing written statement. Rather, the same shall facilitate the decision of the reference in just and fair manner.

8. Accordingly, the order dated 13.01.2023 (Annexure P-1) passed by respondent No. 1 to the extent whereby the defence of petitioner-Management has been ordered to be struck off; is hereby quashed. Now, the petitioner-Management is afforded one opportunity to submit its written statement, subject to payment of Rs. 5,000/- as costs, to be deposited before the Tribunal below, within a period of four weeks from the date of receipt/presentation of copy of this order.

9. All pending application(s), if any, shall stand closed.

(HARSH BUNGER)
JUDGE

30.10.2023
sjks

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