



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

239

CWP-10516-2024
Decided on : 17.05.2024

Indoco Remedies Ltd.

. . . Petitioner(s)

Versus

Authority under the Payment of Wages Act, 1936,
1st Floor, Mini Secretariat, Block 2,
Karnal, Haryana and another

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Ashim Aggarwal, Advocate for
Mr. Gautam Goyal, Advocate
for the petitioner(s).

Mr. Sandeep Singal, Advocate
for respondent No.2.

SANJAY VASHISTH, J. (Oral)

1. Petitioner – Indoco Remedies Ltd., Indoco House, 166, CST Road, Kalina, Santacruz (E), Mumbai, through its authorized signatory Mr. Gopal Naikar, has filed the present writ petition for seeking quashing of the order dated 22.03.2024 (Annexure P-12), passed by the Authority, Payment of Wages Act, 1936, Karnal, Haryana (respondent No.1 herein), whereby, misc. application dated 18.07.2023, filed by the petitioner – Management, under Order VI Rule 17 CPC, in the Claim Application No.10/PW/2023, has been dismissed.

2. Upon notice of motion having been issued, Mr. Sandeep Singal, Advocate, has appeared on behalf of respondent No.2 – Suraj Pal Singh (workman). In fact, petitioner (being contesting respondent in the main claim application under the Payment of Wages Act) filed an application



before the Authority under the Payment of Wages Act, 1936 (in short, 'PW Act'), for seeking amendment in the reply to the claim application filed by respondent No.2 – workman.

3. Counsel for the petitioner submits that the said application has been dismissed by the authority with a hyper technical approach. For the purpose of introducing amendment in the reply/written statement, counsel for the petitioner submits that in the reply on merits, filed by the employer (petitioner herein), inadvertently, after paragraph No.1, 2 & 3, paragraphs No.14 & 15, have been mentioned, instead of paragraphs No.4 & 5. In fact, paragraphs No.14 & 15, should be considered as reply to the paragraphs No.4 & 5.

4. Mr. Ashim Aggarwal, counsel for the petitioner – Management, argues that the proceedings are at initial stage, and therefore, the said application could not be dismissed by considering that the respondent (petitioner herein) is delaying the final decision in the main claim application/petition. In support of his submission, counsel submits that in fact, respondent No.2 filed the application in February, 2023 (Annexure P-8) and immediately thereafter, same was replied on 18.05.2023 (Annexure P-9). Thereafter, realizing the mistake at very early stage i.e. on 18.07.2023, petitioner herein moved an application (Annexure P-10) for seeking necessary amendment in the reply. Thus, submits that by immediately filing the application, by no stretch of imagination, it can be assumed that petitioner is making attempt to delay the proceedings. At last, counsel submits that in case the prayer for amendment in the reply is accepted by this Court, he is ready to pay the amount of costs also to the satisfaction of this Court.



5. On the other hand, counsel for respondent No.2 submits that the prayer made by the petitioner is untenable and there is no doubt that the amendment has been sought just only with a purpose to delay the proceedings, so that the application may not reach to the stage of final adjudication, at the earliest.

6. I have taken into consideration the averments made by both the sides.

7. There is a settled proposition of law that if the amendment sought by the litigant is necessary to be allowed for just decision of the case or to avoid any unnecessary confusion, same is required to be viewed with liberal approach. Until, the complete set of pleadings is there, it may deprive the Court/decision taking authority also to reach to the correct conclusion for deciding the real controversy between the parties. Once, there is complete set of pleadings with a clear set of circumstances, it is always convenient for the Court/Adjudicating Authority to reach to the correct/required conclusion.

8. The view of this Court is supported by the order dated **20.05.2022**, passed by the Coordinate Bench of this Court in **CR-1660-2020**, titled as, “**Paro and others vs. Mahindo**”, wherein, in the similar circumstances, to avoid miscarriage of justice, the order of striking off defence was set-aside, and opportunity of filing of written statement was granted. Relevant part of the order dated 20.05.2022, says as under:-

“ The provisions of Order 8 Rule 1 of the CPC no doubt are directory in nature, however, at the same time the Courts must exercise their discretion to condone the delay, if any, in filing the written statement after exercising due circumspection and in case there appears to be an attempt on the part of the defendant to engage in dilatory tactics, the Courts should nip the same unhesitatingly.

Adverting to the case in hand, the petitioners were granted



four opportunities to file their written statement, however, they failed to do so.

Be that as it may, if the petitioners are not granted one more opportunity to file their written statement, they would suffer irreparable loss which in turn would result in miscarriage of justice. Therefore, for just and proper adjudication of the case, this Court deems it appropriate to grant one last effective opportunity to the petitioners to file their written statement.

In the wake of the above, without issuing notice to the respondent, to avoid any further delay as well as expenses which she shall have to incur to defend these proceedings, the impugned order dated 21.11.2019, is set aside. The instant revision petition is allowed in the following terms:-

- 1. The petitioners are granted one last effective opportunity to file their written statement.*
- 2. In the event of default by the petitioners, the case shall not be adjourned any further for filing of their written statement and consequently their defence shall be deemed to be struck off.*
- 3. This, however, shall be subject to payment of costs in the sum of Rs.5,000/- to be paid to the respondent which shall be a condition precedent.”*

9. Even this Court, in similar circumstances, has passed a judgment in **Gigraj @ Giga Ram Jain v. Ram Kumar and others, 2023(3) RCR(Civil) 698 : Law Finder Doc Id # 2265730**, whereby, subject to payment of some cost, one opportunity was granted to the defendant (petitioner therein) to file written statement.

10. Even in the present case, the proceedings are not on a mature stage. The details given by the petitioner and recorded here-in-above, have not been challenged by the respondent/employee also. Therefore, by taking into consideration the facts and circumstances and also being guided by the judgment passed this Court in **Gigraj @ Giga Ram Jain's case (supra)**, I deem it appropriate to **set-aside the order dated 22.03.2024 (P-12)**, and consequently, grant one more effective opportunity to the petitioner for filing written statement on or before **30.05.2024**, and then the learned Authority may frame/re-frame the issues afresh, if so required.



However, it would be subject to the payment of ₹ 30,000/-, as costs, out of which, Rs.15,000/- would be paid by the petitioner – Management to respondent No.2 - workman before the Authority under the PW Act at Karnal, and remaining cost amount of Rs.15,000/- would be deposited at M.D.D. Bal Bhawan Anath Ashram, P.B. No.137, Rajivpuram, Phoosgarh Road, Karnal – 132001 (Haryana).

11. Petition stands **disposed of** accordingly.

(SANJAY VASHISTH)
JUDGE

May 17, 2024
J.Ram

Whether speaking/reasoned: ✓ Yes/~~No~~
Whether Reportable: ✓ Yes/~~No~~