

CWP-24952-2017

- 1 -

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

CWP-24952-2017

Decided on : 15.03.2024

M/s Indicon Boilers Limited

. . . Petitioner(s)

Versus

The Presiding Officer, Labour Court-III,
Faridabad and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Vivek Singla, Advocate
for the petitioner(s).

Mr. Manoj Tanwar, Advocate and

Mr. Jeetin Jhala, Advocate for
Mr. Shakunt Jhala, Advocate
for respondent No.2

SANJAY VASHISTH, J. (Oral)

1. Present writ petition has been filed by the petitioner – M/s Indicon Boiler Limited (Management), for seeking quashing of the impugned orders dated 04.02.2016 and 04.07.2017 (Annexures P-3 & P-6, respectively), passed by learned Presiding Officer, Labour Court-III, Faridabad (respondent No.1), whereby, application for recalling the order dated 04.02.2016, was dismissed.

2. Vide impugned order dated 04.02.2016 (P-3), in the absence of conducting any cross-examination, despite affording 9 effective opportunities, learned Labour Court treated the *cross-examination as nil*. Thereafter, the evidence of the workman was closed. Petitioner – Management has also challenged the order dated 04.07.2017 (P-6), whereby, application dated 07.03.2017 (P-4) filed by the petitioner – Management for

CWP-24952-2017

- 2 -

setting aside of order dated 04.02.2016 (P-3), whereby, the order directing to treat cross-examination of two witnesses of the workman i.e. WW1 & WW2, as “nil”, was dismissed.

3. On assailing both the orders before this Court, notice of motion was issued on 02.11.2017, and thereafter, on 07.12.2017, further proceedings before the Labour Court were stayed. Thereupon, the interim stay order was continued.

4. Counsel appearing on behalf of respondent No.2 submits that in the absence of conducting of any cross-examination of the witnesses produced by the workman, and thereupon, challenging the orders before this Court, the orders passed by the Labour Court, has resulted into prejudicing the rights of the workman, because, the proceedings before the Labour Court have been stayed by virtue of the order dated 07.12.2017, passed by this Court.

Thus, till date reference under Section 10(1)(C) of the Industrial Disputes Act, 1947 (in short, ‘ID Act’), could not be decided within the appropriate time-frame.

5. While referring to the order dated 21.10.2022, counsel appearing on behalf of respondent No.2 points out that the workman namely; Govind Prasad Sharma expired during the pendency of present writ petition, and his legal representatives were impleaded as respondents No.2(i) & 2(ii). Thus, it is submitted that the prayer made by the petitioner – Management, does not survive because of the death of the workman. It is also pointed out that nine effective opportunities were afforded to the petitioner – Management, but they failed to cross-examine the witnesses of the workman, and said fact, has been recorded in the impugned order dated

CWP-24952-2017

- 3 -

04.02.2016 (P-3) also.

6. Broadly speaking, counsel for respondent No.2 submits that pendency of the present writ petition is causing delay in the proceedings before the Labour Court, and resultantly, workman (now to the legal representatives) is left to suffer the losses. Thus, prays for disposal of present writ petition.

7. After taking note of all the factual aspects coupled with the fact that there is interim stay operating against the interest of the workman, and that the workman has already expired during the pendency of present writ petition, prayer of the petitioner – Management in the writ petition is not worth to be entertained. Even, for conducting the cross-examination of WW2 also, petitioner is not required to be afforded any further chance. Because, it appears that petitioner/management's motive is to prolong the proceeding only by taking one excuse or the other.

Thus, prayer being in-genuine, petition is hereby dismissed.

(SANJAY VASHISTH)
JUDGE

March 15, 2024

J.Ram

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

Whether Reportable: ✓ Yes/~~No~~