

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

202

CWP-25603-2022 (O&M)  
Decided on : 02.05.2024

M/s Fluor Daniel India Private Limited

. . . Petitioner(s)

Versus

The Presiding Officer,  
Industrial Tribunal-cum-Labour Court-1,  
Gurugram and others

. . . Respondent(s)

**CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**

**PRESENT:** Mr. Akshay Bhan, Sr. Advocate with  
Mr. Vikas Kumar Jha, Advocate,  
Ms. Ena Kapur, Advocate,  
Ms. Sakshi Malhotra, Advocate and  
Mr. Amandeep Singh, Advocate for the petitioner(s).

Mr. Satish Singla, AAG, Haryana.

Mr. S.K. Kaushik, Advocate  
for respondent No.2.

\*\*\*\*

**SANJAY VASHISTH, J. (Oral)**

1. Petitioner – M/s Fluor Daniel India Private Limited, has filed the present writ petition, for seeking the setting aside of the *ex-parte* award dated 25.03.2022 (Annexure P-1) and detailed order dated 20.10.2022 (Annexure P-2), passed by respondent No.1 – Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Gurugram (in short, ‘learned Tribunal’), in Claim Petition (Reference No.PR/139/19).

2. Vide *ex-parte* award dated 25.03.2022 (P-1), respondent No.2 – Girish Om Prakash Sharma (workman) has been ordered to be reinstated with continuity of service and back-wages @ 50% to be calculated at his last drawn pay.

3. An application, for setting aside of the order dated 04.12.2019, vide which, petitioner – Management, initially, was proceeded against *ex-parte*, is pending without any decision along with an application for staying the execution proceedings.

4. For reference, order dated 20.10.2022, passed at the first instance, is reproduced here-under:-

*“Present:- Sh. Abhijit Mittal, AR for the respondent-applicant.  
Sh. Sandeep Sharma, AR for the workman.*

*Memo of appearance on behalf of the workman is filed with prayer to supply copy of the application filed by the applicant for setting aside exparte order dated 04.12.2019 and exparte award dated 25.03.2022. AR for the applicant undertakes to do the needful.*

*At this stage, learned AR for the applicant has submitted that during pendency of the present application, proceedings before The Deputy Labour Commissioner, Circle-1, Gurugram be stayed. He has placed on record reply filed by the applicant in response to notice bearing no. 2209 dated 18.10.2022 received from the office of DLC, Circle-1, Gurugram. Reliance is placed on **Amrik Singh v/s Jasbir Singh, (1995) 3 RRR 519, Rabindra Singh v/s Financial Commissioner, Cooperation, Punjab and others, (2008) 7 SCC 663 and Davinder Pal Singh and another v/s Narinder Pal Singh and others, (2016) 3 RCR (Civil) 194(2).***

*prayer is vehemently opposed.*

*Heard and perused the record.*

*Firstly; the applicant has not made any prayer for staying the execution of impugned award while filing the instant application. Secondly; it is discernible from copy of notice bearing no.2209 dated 18.10.2022 issued by Deputy Labour Commissioner, Circle-1, Gurugram that the applicant repeatedly avoided its appearance before him. The judgment(s) referred to on behalf of the applicant are not applicable to the facts in hand as in those cases either the application or prayer was made for staying the operation of the impugned judgment/decree. Thus, without*

*commenting on the merits of the case, no ground is made out for grant of stay at this stage.*

*Now to come up on 04.01.2023 for reply and consideration.*

*Sd/-  
(A.K. Sharm)  
POLC-I, GGN  
20.10.2022”*

5. It appears that on being enlightened by the Court, petitioner – Management realized its mistake and immediately, moved one application for staying the operation of execution proceedings, on the same day i.e. 20.10.2022, which came up for hearing on the same day as well, and following order was passed therein:-

*“ M/s Flour Danial India Pvt. Ltd. vs. Girish Om Prakesh Sharma*

*Present:- Sh. Abhijit Mittal, AR for the respondent-applicant*

-----

*File is taken up again as the applicant has filed another application for staying the operation of impugned award. The application be checked and registered as Misc. Application. Let notice be issued to the workman for the date already fixed.*

*Sd/-  
(A.K. Sharma)  
POLC-I, GGN  
20.10.2022”*

6. On the very outset, learned Senior counsel submits that at this stage, challenge to the *ex-parte* award dated 25.03.2022 (P-1), would not be pressed by him, if a time bound direction to decide the pending application(s) is issued to the learned Tribunal (respondent No.1 herein), by which, petitioner – Management has sought setting aside of the *ex-parte* order dated 04.12.2019, and also the stay of proceedings till the time application for challenge to *ex-parte* order is decided.

7. Counsel for respondent No.2 – workman submits that present writ petition is not maintainable, because order of declining the stay of the proceeding, has not been passed by the learned Tribunal, and therefore, petitioner – Management should go back to join the proceedings before the learned Tribunal, for seeking adjudication of the applications already pending for its decision.

However, there is no serious objection to the counsel for respondent No.2 – workman, in case, a direction is issued for decision of the applications pending before the learned Tribunal, within some time bound manner.

8. After going through the impugned award/order, pleadings raised in the present writ petition and also, after hearing learned counsel for the parties, I deem it appropriate to dispose of the present writ petition by issuing a direction to decide the aforesaid application(s) within some time bound manner.

Therefore, in the interest of justice, and to avoid unnecessary delay as well as keeping in view the interest of the workman, I hereby direct the learned Tribunal, where the application(s) for seeking, setting aside of the *ex-parte* order dated 04.12.2019, *ex-parte* award dated 25.03.2022, and also the separately filed application for seeking stay of the executing proceedings, are pending, to be decided in accordance with law, within a period of two months from the date of receipt of this order.

It is also clarified that for the decision of the aforesaid application(s), if day-to-day proceedings are to be conducted, then learned Tribunal may conduct day-to-day proceedings also. Besides, learned Tribunal would not allow unnecessary delay in the proceedings of the

application filed under Order 9 Rule 13 of the Civil Procedure Code, 1908, if any attempt is made at the instance of either of the parties.

Till the time, subsequently filed application on 20.10.2022 for stay of proceedings is finally decided, proceedings arising from impugned *ex-parte* award would remain stayed.

With the aforementioned terms, present writ petition stands **disposed of.**

For compliance, copy of order be forwarded to the concerned Court i.e. Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Gurugram.

**(SANJAY VASHISTH)**  
**JUDGE**

**May 02, 2024**

*J.Ram*

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

*Whether Reportable:* ✓ *Yes*/~~No~~