



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

LPA-1816-2019 (O&M)

Reserved on:20.08.2024

Date of decision:28.08.2024

Punjab State Warehousing Corporation and another
....Appellants

Versus

Presiding Officer, Industrial Tribunal, Patiala and another
..Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:- Mr. Simardeep Singh Bedi, Advocate for the appellants

Mr. Puneet Sharma, Advocate for respondent no.2
(through video conferencing)

ANIL KSHETARPAL, JUDGE

In this intra court appeal, the Management calls in question the correctness of the learned Single Judge's order dated 23.07.2019, which, in turn, has upheld the Industrial Tribunal's order passed on 08.05.2007.

During the course of hearing, the appellants' counsel has disclosed that respondent no.2-workman pursuant to reinstatement continues to perform his duties as on daily wage basis and he is due to attain the age of superannuation in the year 2026.

The workman claiming to have worked continuously from 1995 to 30.06.2007, before his services were illegally terminated, sent a

demand notice, which was referred to the Industrial Tribunal for adjudication. The workman filed claim statement on 16.11.2009. The appellants-Management filed reply that the workman has only worked for a period of 2 months in February/March, 2004. On 28.07.2011 the Management was proceeded against ex-parte as its authorized representative was absent. An application for setting aside ex-parte order was filed on 06.12.2012 by the Management, which was allowed. Thereafter, the case was fixed for production of record by the Management. Again on 07.02.2013, authorized representative of the Management did not appear. Hence, once again ex-parte proceedings were ordered against the Management and leading to the ex-parte award on 28.04.2014. An application to set aside ex-parte award was filed on the same day claiming that Management was proceeded against ex-parte on 28.07.2011 (which in fact was already set aside). While disclosing the reasons for absence, the Management asserted as under:-

“3. That the authorized representative of the respondent had been appearing before this Hon’ble court, however he never came to know that he has already been proceeded against ex-parte.

4. That the absence of the authorized representative was due to fact that some times before he appeared, the case was already adjourned, as such the counsel could not note that the respondent has already been proceeded against ex-parte.”

This application was dismissed on 23.07.2019 by the District Tribunal, which in turn, has been upheld by the learned Single Judge. The Industrial Tribunal as well as the learned Single Judge have concurrently concluded that the Management has failed to disclose

sufficient reasons for its absence on 07.02.2013 and thereafter, for a continuous period of more than one year.

Learned counsel representing the appellants contends that there is patent error in the award passed by the Industrial Tribunal as 23.03.2006 is stated to be the date of demand notice whereas as per the case of the workman he continued to work upto 30.06.2007.

It appears that there is a printing error in the award dated 28.05.2014 passed by the Industrial Tribunal. It is evident from the award that the reference was sent on 31.03.2009 to the Industrial Tribunal by the Govt. whereas the claim statement was filed on 16.11.2009. While contesting the claim petition, the Management never claimed that the demand notice was sent on 23.06.2006. The attention of the Industrial Tribunal was never drawn to this inadvertent error even while filing application on 28.04.2014.

From the reading of extracted portion of the application, it is evident that the appellants have failed to furnish any plausible explanation to set aside ex-parte award. The appellants are required to give sufficient reasons before an ex-parte award is set aside. Those reasons are required to be plausible and sufficient to justify the absence from the proceedings. The Management has failed to prove that any sincere effort was made to contest the claim petition when it was pending before the Industrial Tribunal.

Learned counsel representing the appellants did not make any other submission. The workman was ordered to be reinstated

without back wages. He is continuously working for the last 10 years on daily wages basis.

Keeping in view the aforesaid situation, this Court does not find it appropriate to interfere in this appeal.

Accordingly, the Letter Patent Appeal stands dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

28.08.2024

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No