



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-2719-2024 (O&M)
Reserved on:- 22.01.2025
Pronounced on: 28.01.2025

Dainik Bhaskar and another

....Appellants

versus

Rajesh Kapil and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present:- Mr. P.S. Khurana, Advocate for the appellants.

SUDHIR SINGH, J. (ORAL)

The present intra Court appeal is directed against the order dated 13.05.2024 passed by learned Single Judge, in CWP-6873-2020, whereby the said writ petition was dismissed.

2. In the writ petition, the appellants had laid challenge to the award dated 18.01.2019 passed by the learned Industrial Tribunal, Jalandhar (for short 'the Tribunal') whereby, a reference had been answered in favour of respondent No.1-workman by holding him entitled to full back wages from the date of retrenchment of his services i.e. 30.06.2010 to 04.05.2012.

3. Learned counsel appearing on behalf of the appellants has vehemently argued that while passing the impugned order, learned Single Judge has not taken into consideration the fact that termination order dated 13.06.2010 had been withdrawn by the appellants and despite that withdrawal, the workman did not join his service. It is further argued that the impugned award passed by the Tribunal is contrary to provisions of Section 17 of Working Journalist and other Newspapers Employees (Condition of Service) and Misc. Provisions Act,

1955 (for short 'the Act of 1955'), which stipulate that where any amount is due under the Act of 1955 to a newspaper employee from an employer, such an employee and/or his authorized person in this behalf or any member of his family, may make an application to the State Government for recovery of the said amount. It is thus, contended that in view of the provisions of said Act of 1955, the very claim petition of the respondent No.1-workman was not maintainable and, thus, the impugned award and the order passed by learned Single Judge, are liable to be set aside.

4. We have heard the learned counsel for the appellants and have also gone through the records of the case.

5. A perusal of the impugned order would show that the learned Single Judge has categorically noticed the factum of concocted version of the Management i.e., the appellants herein. The relevant extract from the said order would read as under:-

"4. Counsel for the petitioners – Management submits that in fact, reference of the incidents as mentioned in paragraph No.16 of the award is only prior to 20.07.2010. Thus, happening of the said events mentioned in the said paragraph, is of no consequence, once, on 20.07.2010, i.e. subsequent to the earlier events, termination order had been withdrawn, but the workman failed to join the duty in the office of the Management.

Thus, submits that the workman is not entitled for the back wages for the said period, as despite withdrawal of the termination order, he failed to join the duty back.

5. To counter the submissions addressed by counsel for the petitioner – Management, counsel for respondent No.1 (workman) submits that withdrawal of the termination was nothing but a sham order.

6. In fact, counsel for respondent No.1 produces a photocopy of the FIR bearing No.42 dated 28.02.2011, under Sections 452, 506 I.P.C. at Police Station Navi Baradari, District Jalandhar, made on the basis of the complaint bearing No.2944 PTM dated 21.10.2010, wherein the allegation of trespassing was in regard to the date i.e. 11.07.2010, and submits that in the said FIR, there is nothing mentioned about the fact that on 20.07.2010, termination order of the workman had been withdrawn.

Thus, plea taken by the petitioners – Management before learned Tribunal or at the time of filing of the reply to the demand notice, is concocted one.

7. This Court has gone through the findings recorded in the award and heard the submissions addressed by counsel from both the sides, and does not find any reason to interfere with the findings recorded by learned Tribunal.”

6. If the submissions made by the learned counsel for the appellants that the impugned order had been withdrawn, there was no reason for the appellants not to mention the said fact in the FIR No.42 dated 28.02.2011, registered by the appellants-Management against the workman. Admittedly, the said FIR had been registered after the date of alleged withdrawal of termination order. So far as the contention of learned counsel for the appellants regarding applicability of provisions of Section 17 of the Act of 1955, the same cannot be considered by this Court in the present Letters Patent Appeal, as the same was not raised by the appellants-Management neither before the Tribunal nor before learned Single Judge, and hence, the same cannot be allowed to be raised, for the first time, in the present appeal.

7. In view of the above, we do not find any illegality in the impugned order, which warrants any interference by this Court.

8. No other point has been urged.

9. Hence, the present appeal is dismissed.

10. Pending application(s), if any, shall stand disposed of.

(SUDHIR SINGH)
JUDGE

(SUKHVINDER KAUR)
JUDGE

28.01.2025

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No