
(2001) 09 P&H CK 0120

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No's. 4180, 5251, 5265 and 5266 of 1985

Ajit Singh and Others

APPELLANT

Vs

Presiding Officer, Labour Court and Others

RESPONDENT

Date of Decision : 05-09-2001

Acts Referred:

Citation : (2001) 09 P&H CK 0120

Hon'ble Judges : S.S. Sudhalkar, J

Bench : Single Bench

Advocate : B.N. Sehgal and M.S. Bedi, for the Appellant; Deepak Agnihotri, M.L. Saini and C.G. Dogra, for the Respondent

Final Decision : Allowed

Judgement

S.S. Sudhalkar, J.—This judgment will dispose of Civil Writ Petitions No. 5251 of 1985, 4180 of 1985, 5265 of 1985 And 5266 of 1985.

Civil Writ Petition No. 5251 of 1985 if filed by the workman challenging the order of the Labour Court annexure P/7 vide which it set aside the ex-parte award passed by it. The ex-parte award was passed against the private respondent on 9.5.1983. It was published in the Government Gazette on 2.9.1983. The application for setting aside the award was filed on 7.10.1983. The Labour Court rejected the same holding that it had become functus officio after the expiry of 30 days of the publication of award. The respondent then filed review application before the Labour Court. The Labour Court allowed the same by the impugned order and the said order is under challenge in this petition.

2. In other three writ petitions also, the applications for setting-aside ex-parte award (s) were given after the expiry of 30 days of the publication of award. In these cases also, the Labour Court had dismissed the applications. However, in the orders passed in review, the Labour Court re-considered the matter. In the order in review application impugned in Civil Writ Petition No. 5265 of 1995, the Labour Court held that it had power to review the award and framed the

following issue :-

"Whether there is sufficient ground to set-aside the ex-parte proceedings",

3. In the other two petitions, the ex-parte award was set-aside.

4. I have heard learned Counsel for the parties.

5. The first application for setting aside the award was filed after 30 days of the publication of the award. The Labour Court was right when it initially held that it had become functus officio. However, it cannot be said to be correct in passing the impugned order. The Tribunal considered the case of Grindlays Bank Ltd. Vs. Central Government Industrial Tribunal and Others, However, though the case of Grindlays Bank Ltd (supra) holds that the Tribunal had the power to review the award, it is specifically held therein that the proceedings with regard to a reference u/s 10 of the Industrial Disputes Act are not deemed to be concluded until the expiry of 30 days from the date of publication of the award and till then the Tribunal retains jurisdiction over the dispute referred to it for adjudication and up to that date it has the power to entertain an application in connection with such dispute. This case has been considered by the Supreme Court in the case of Satnam Verma Vs. Union of India (UOI), . In that case a reference was come up for hearing before the Labour Court on 23.2.1982. The appellant and his advocate was not present and the Labour Court directed the matter to be heard ex-parte and after that the Labour Court proceeded to observe that as no evidence was led by the appellant, there was nothing to show that the termination of service was illegal or invalid and concluded that the appellant was, therefore, not entitled to any relief. In that case the appellant had found that the matter was disposed of ex-parte on 23.2.1982. On the same day he moved an application pointing out that his information about the date was incorrect. The Labour Court held that once the award was published in the Gazette, the Labour Court has no jurisdiction to recall the award or to set aside the ex-parte award and to restore the case to file. A Division Bench of the High Court observed that the Labour Court was right and dismissed the writ petition. It was held by the Supreme Court in the case of Satnam Verma (supra) that the contention which found favour both with the Labour Court and the High Court is wholly untenable in view of the decision in the case of Grindlays Bank Ltd. (supra). Of course in the case of Satnam Verma (supra) the question of consideration of the filing of review petition beyond 30 days was not there.

6. It can also be noted that in the case of Satnam Verma, the Supreme Court has not over-ruled the judgment in the case of Grindlays Bank Ltd. In the case of Satnam Verma, the question of power of the Labour Court to set aside the award after 30 days of its publication was not under consideration. Therefore, the view taken by the Court in the case of Grindlays Bank Ltd. still holds good.

7. In the present case, the Labour Court has dealt with the case of Satnam Verma as if it had over-ruled the view taken in the case of Grindlays Bank Ltd. Thus, the view taken by the Labour Court cannot be accepted and the order

passed by it in review deserves to be set-aside because in the present cases the applications for setting aside the award were made after 30 days of publication of awards.

8. Learned Counsel for the petitioners also argued that the Labour Court has not power to review its decision. However, as I am allowing these writ petitions, by quashing the orders passed by the Labour Court in review, on merits, I do not find it necessary to decide this point. This point would have been important, if on merits, the order of the Labour Court in review had to be sustained.

As a result, these writ petitions are allowed. The impugned orders of the Labour Court, passed by it in review, are set aside.